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OFFICIAL DOCUMENTS

CONTENTS OF VOLUME THIRTY-TWO

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COMMISSION OF JURISTS

TO CONSIDER AND REPORT UPON THE REVISION OF THE RULES OF WARFARE

GENERAL REPORT [1]

The Conference on the Limitation of Armament at Washington adopted at its sixth plenary session on the 4th February, 1922, a resolution for the appointment of a Commission representing the United States of America, the British Empire, France, Italy and Japan to consider the following questions:

(a) *Do existing rules of international law adequately cover new methods of attack or defence resulting from the introduction or development, since The Hague Conference of 1907, of new agencies of warfare?*

(b) *If not so, what changes in the existing rules ought to be adopted in consequence thereof as a part of the law of nations?*

The Commission was to report its conclusions to each of the Powers represented in its membership.

The resolution also provided that those Powers should thereupon confer as to the acceptance of the report and the course to be followed to secure the consideration of its recommendations by the other civilized Powers.

By a second resolution adopted at the same session it was agreed to exclude from the jurisdiction of the Commission the rules or declarations relating to submarines and to the use of noxious gases and chemicals already adopted by the Powers in the said conference.

With the unanimous concurrence of the Powers mentioned in the first of the above resolutions an invitation to participate in the work of the Commission was extended to and accepted by the Netherlands Government. It was also agreed that the programme of the Commission should be limited to the preparation of rules relating to aërial warfare, and to rules relating to the use of radio in time of war.

The United States Government proposed that the Commission should meet on the 11th December, 1922, at The Hague, and the representatives of the six Powers mentioned above assembled on that date in the Palace of Peace. At the second meeting of the Commission the Honorable John Bassett Moore, First Delegate of the United States, was elected President of the Commission.

The Commission has prepared a set of rules for the control of radio in

[1] Great Britain, Parliamentary Papers, Cmd. 2201. Misc. No. 14 (1924). The articles of this report, without the accompanying comment, were printed from a text made public by the Department of State, in this JOURNAL, Supp., Vol. 17 (1923), p. 242. The complete text is now published in view of later events and discussions of the subject.—ED.

time of war, which are contained in Part I of this report, and a set of rules for aërial warfare, which are contained in Part II of this report.

The Commission desires to add that it believes that if these sets of rules are approved and brought into force, it will be found expedient to make provision for their reëxamination after a relatively brief term of years to see whether any revision is necessary.

PART I

Rules for the Control of Radio in Time of War

The regulation of the use of radio in time of war is not a new question. Several international conventions already contain provisions on the subject, but the ever increasing development of this means of communication has rendered it necessary that the whole matter should be reconsidered, with the object of completing and coördinating existing texts. This is the more important in view of the fact that several of the existing international conventions have not been ratified by all the Powers.

The articles of the existing conventions which deal directly or indirectly with radio-telegraphy in time of war are as follows:

The Land War Neutrality Convention (No. V of 1907) prohibits in Article 3 the erecting of radio stations by belligerents on neutral territory and also the use by belligerents of any radio station established on neutral territory before the war for purely military purposes and not previously opened for the service of public messages. Article 5 obliges the neutral Power not to allow any such proceeding by a belligerent.

Under Article 8 a neutral Power is not bound to forbid or restrict the employment on behalf of belligerents of radio stations belonging to it or to companies or private individuals.

Under Article 9 the neutral Power must apply to the belligerents impartially the measures taken by it under Article 8 and must enforce them on private owners of radio stations.

Article 8 of the Convention for the Adaptation of the Geneva Convention to Maritime Warfare (No. X of 1907) provides that the presence of a radio installation on board a hospital ship does not of itself justify the withdrawal of the protection to which a hospital ship is entitled so long as she does not commit acts harmful to the enemy.

Under the Convention concerning Neutral Rights and Duties in Maritime Warfare (No. XIII of 1907) belligerents are forbidden, as part of the general prohibition of the use of neutral ports and waters as a base of naval operations, to erect radio stations therein, and under Article 25 a neutral Power is bound to exercise such supervision as the means at its disposal permit to prevent any violation of this provision.

The unratified Declaration of London of 1909, which was signed by the Powers represented in the Naval Conference as embodying rules which

corresponded in substance with the generally recognized principles of international law, specified in Articles 45 and 46 certain acts in which the use of radio-telegraphy might play an important part as acts of unneutral service. Under Article 45 a neutral vessel was to be liable to condemnation if she was on a voyage specially undertaken with a view to the transmission of intelligence in the interest of the enemy. Under Article 46 a neutral vessel was to be condemned and receive the same treatment as would be applicable to an enemy merchant vessel if she took a direct part in hostilities or was at the time exclusively devoted to the transmission of intelligence in the interest of the enemy. It should be borne in mind that by Article 16 of the Rules for Aërial Warfare an aircraft is deemed to be engaged in hostilities if in the interests of the enemy she transmits intelligence in the course of her flight.

The following provisions have a bearing on the question of the control of radio in time of war, though the conventions relate principally to radio in time of peace. These provisions are Articles 8, 9 and 17 of the International Radio-Telegraphic Convention of London of 1912. Of these provisions Article 8 stipulates that the working of radio-telegraph stations shall be organized as far as possible in such a manner as not to disturb the service of other radio stations. Article 9 deals with the priority and prompt treatment of calls of distress. Article 17 renders applicable to radio-telegraphy certain provisions of the International Telegraphic Convention of St. Petersburg of 1875. Among the provisions of the Convention of 1875 made applicable to radio-telegraphy is Article 7, under which the high contracting parties reserve to themselves the right to stop the transmission of any private telegram which appears to be dangerous to the security of the state or contrary to the laws of the country, to public order or to decency. Under Article 8, each government reserves to itself the power to interrupt, either totally or partially, the system of the international telegraphs for an indefinite period if it thinks necessary, provided that it immediately advises each of the other contracting governments.

Regard has also been given to the terms of the Convention for the Safety of Life at Sea, London, 1914.

With regard to the radio-telegraphy conventions applicable in time of peace, it should be remembered that these have not been revised since 1912, and that it is not unlikely that a conference may before long be summoned for the purpose of effecting such revision.

The work of the Commission in framing the following rules for the control of radio in time of war has been facilitated by the preparation and submission to the Commission on behalf of the American Delegation of a draft code of rules. This draft has been used as the basis of its work by the Commission.

The first article which has been adopted cannot be appreciated without reference to Article 8 of the Radio-Telegraphic Convention of 1912. This latter article enunciates the broad principle that the operation of radio sta-

tions must be organized as far as possible in such a manner as not to disturb the service of other stations of the kind. The object of Article 1 is to demonstrate that this principle is equally to prevail in time of war. Needless to say, it is not to apply as between radio stations of opposing belligerents. In the same way as in time of peace the general principle cannot be applied absolutely, so also in time of war it can only be observed "as far as possible."

Article 1

In time of war the working of radio stations shall continue to be organized, as far as possible, in such manner as not to disturb the services of other radio stations. This provision does not apply as between the radio stations of opposing belligerents.

Article 17 of the Radio-Telegraphic Convention of 1912 enables states to regulate or prohibit the use of radio stations within their jurisdiction by rendering applicable to radio-telegraphy certain provisions of the International Telegraphic Convention of 1875. In particular it is Articles 7 and 8 of that convention which enable such measures of control or prohibition to be taken. The object of Article 2 is to make it clear that such rights subsist equally in time of war.

Article 2

Belligerent and neutral Powers may regulate or prohibit the operation of radio stations within their jurisdiction.

The next article is really only an adaptation of Articles 3 and 5 of the Land Warfare Neutrality Convention (No. V of 1907). Article 3 (*b*) of that convention only prohibits the use of any radio-telegraphic installations established by belligerents before the war on the territory of a neutral Power for purely military purposes. The object of Article 3 as now adopted is to prohibit any erection or operation by a belligerent Power or its agents of radio stations within neutral territory.

The wording shows that the responsibility of the neutral state is affected as well as that of the belligerent state in the case in question. The words "personnes à son service" in the French text are employed in the same sense as the word "agents" in the English text.

It should be understood that neutral governments are bound to use the means at their disposal to prevent the acts which the article is designed to stop. This implies that they will be responsible in any serious case of negligence.

Article 3

The erection or operation by a belligerent Power or its agents of radio stations within neutral jurisdiction constitutes a violation of neutrality on the part of such belligerent as well as on the part of the neutral Power which permits the erection or operation of such stations.

Article 4 covers the same ground, so far as concerns radio, as that provided for in Articles 8 and 9 of Convention V of 1907 mentioned above; but while Article 8 stipulates that a neutral Power is not bound to forbid or restrict the use of wireless installations by a belligerent, and Article 9 relates to the restrictive or preventive measures taken by a neutral Power for this purpose, measures which must be applied impartially to the belligerents, Article 4 imposes on neutral Powers the duty of preventing the transmission by radio of any information destined for a belligerent concerning military forces or military operations.

This article is a compromise. On one side one delegation pointed out that the 1907 system had stood the test during the war when neutral governments had taken under Article 9 of the 1907 Convention restrictive or preventive measures which were quite satisfactory. On the other side it was pointed out that those measures had been taken precisely for the purpose of complying with the obligation imposed by neutrality, and that it would be well to define this obligation so as to help and protect neutral Powers in preventing the violation of their neutrality and thereby reducing the probability of their becoming involved in the war. Agreement was reached on the basis of a text indicating exactly the character of the messages prohibited, *viz.*, messages concerning military forces and military operations. It is understood that the prohibition would not cover the repetition of news which has already become public.

It has been agreed that the article does not render necessary the institution of a censorship in every neutral country in every war. The character of the war and the situation of the neutral country may render such measures unnecessary. It goes without saying that neutral governments are bound to use the means at their disposal to prevent the transmission of the information in question.

The second paragraph merely reproduces the first paragraph of Article 9 of the Convention of 1907. The phrase "destined for a belligerent" covers all cases where the information is intended to reach the belligerent, and not merely messages which are addressed to the belligerent.

Article 4

A neutral Power is not called upon to restrict or prohibit the use of radio stations which are located within its jurisdiction, except so far as may be necessary to prevent the transmission of information destined for a belligerent concerning military forces or military operations and except as prescribed by Article 5.

All restrictive or prohibitive measures taken by a neutral Power shall be applied impartially by it to the belligerents.

The legislation of a large number of Powers, for instance, that of the Powers represented in the Commission, already provides for the prohibition

of the use of radio installations on board vessels within their jurisdiction In harmony with Articles 5 and 25 of the Convention concerning the Right and Duties of Neutral Powers in Maritime Warfare (No. XIII of 1907 Article 5 enacts the continuance of this régime in time of war and make it obligatory for all mobile radio stations.

Article 5

Belligerent mobile radio stations are bound within the jurisdiction of a neutra state to abstain from all use of their radio apparatus. Neutral governments ar bound to employ the means at their disposal to prevent such use.

The transmission of military intelligence for the benefit of a belligeren constitutes an active participation in hostilities and therefore merchan vessels or private aircraft have no right to commit such an act. If they d so they must be content to lose the immunity which their non-combatan status should confer.

The vessel or aircraft concerned renders itself liable to be fired upon at th moment when the act is committed and is also liable to capture. In case o capture the vessel or aircraft will, if the facts be established, be dealt with i the prize court on the same footing as an enemy merchant vessel or enem private aircraft. Members of the crew and passengers, if implicated, are t be regarded as committing an act in violation of the laws of war. A neutra vessel or aircraft which has been fired upon without adequate justificatio will be entitled to address a demand for compensation to the competen authorities. Jurisdiction over such claims might with advantage be con ferred upon the prize court.

The second paragraph of the article places neutral merchant vessels o neutral aircraft when on or over the high seas in a position which correspond to that laid down by Article 4 for radio stations in neutral territory. Suc radio stations on land must not transmit information destined for a belliger ent concerning military forces or military operations and the neutral Powe must see to it that this rule is observed. Mobile radio stations when on o over the high seas are not subject to the control of the neutral government t the same extent as radio stations on land, and consequently the rule laic down in this article does not impose any obligations on the neutral govern ment. The neutral mobile radio stations themselves will, however, b subject to the same measure of prohibition as the radio stations in neutra territory. They must not transmit information of the nature specifie which is destined for the belligerent.

The distinction between the acts dealt with in the first and second para graphs is that in the first and graver case it is assumed that the merchan vessel or aircraft will have been acting in connivance with the enemy. I flagrant cases, as for instance, where the vessel or aircraft is found trans mitting intelligence as to the movement or strength of military forces to an

enemy in order to enable the latter to shape his movements accordingly, such connivance would be presumed.

The phrase "destined for a belligerent" has the same meaning as in Article 4. As in the case of Article 4, it is understood that the prohibition would not cover the repetition of news which has already become public.

The collection by the belligerent of the necessary proofs to establish his case against an aircraft or a vessel may take time. The examination of the message logs of many other vessels or aircraft may be necessary before responsibility can be fixed upon the particular vessel or aircraft which transmitted the incriminating message. It is therefore not possible to limit the right of capture to the duration of the voyage or flight during which the message was sent. How long the liability to capture should subsist was a more difficult point to determine. Agreement was ultimately reached on a basis of one year.

It is realized that the risk of capture during this period will be a great prejudice to neutrals, but on the other hand the injury done to the belligerent by the transmission by radio of improper messages may under modern conditions of warfare be irreparable, and therefore the sanctions attached to the rule must be serious. The neutral will, however, not be gravely inconvenienced by the measures necessary to protect himself against any violation of the rule.

In the case of all aircraft and of merchant vessels which are not carrying passengers, no great injury will result from the prohibition of radio messages other than those which are authorized by Article 9, and in the case of merchant vessels carrying passengers, there can be no insuperable difficulty in the institution on board the merchant vessel, if it is thought necessary, of the same measures as the neutral state may institute on land to protect itself under Article 3.

Paragraph 3 is limited to neutral vessels and aircraft because enemy vessels and aircraft are liable to capture at any time by reason of their enemy status.

It goes without saying that as capture is a belligerent right it cannot be exercised except in time of war, and therefore if the war terminates before the expiration of the time limit, the liability to capture is at an end.

The Netherlands Delegation has made a reserve on the subject of this article. It feels that the difficulties of obtaining satisfactory proofs against a neutral vessel or aircraft in the prize court will be so great in these cases that provision should be made for the international review of prize court decisions under this article. In its opinion the Permanent Court of International Justice would be the most appropriate tribunal for this purpose.

Article 6

1. *The transmission by radio by a vessel or an aircraft, whether enemy or neutral, when on or over the high seas of military intelligence for the immediate*

use of a belligerent is to be deemed a hostile act and will render the vessel or aircraft liable to be fired upon.

2. *A neutral vessel or neutral aircraft which transmits when on or over the high seas information destined for a belligerent concerning military operations or military forces shall be liable to capture. The prize court may condemn the vessel or aircraft if it considers that the circumstances justify condemnation.*

3. *Liability to capture of a neutral vessel or aircraft on account of the acts referred to in paragraphs* (1) *and* (2) *is not extinguished by the conclusion of the voyage or flight on which the vessel or aircraft was engaged at the time, but shall subsist for a period of one year after the act complained of.*

Apart from the question of the acquisition by the enemy of information, the use of radio installations by merchant vessels or aircraft may very well be a source of great embarrassment to the commander of a belligerent force. Not merely may it be essential to him to keep secret the strength of his forces or the operations in which they are engaged, but it may be necessary to ensure that there should be no interference with his communications. Further provisions are, therefore, required to complete the protection afforded to belligerents by Article 6.

For this purpose power is given to a belligerent commander to warn off neutral vessels and neutral aircraft and to oblige them to alter their course so that they will not approach the scene of the operations of the armed forces.

A second right given to a belligerent commander is to impose on neutral vessels and aircraft a period of silence in the use of their transmitting apparatus when in the immediate vicinity of the forces under his command. No matter what technical measures may be taken by neutral mobile stations in accordance with the provisions of Article 1, their messages, if made at a short distance from the receiving apparatus of belligerent forces, might interfere with the working of such apparatus, and such interference might prevent the hearing of messages to or from the commanding officer or the other units under his command.

To avoid undue hardship to neutrals, the faculty conferred upon the belligerent commander is limited to the duration of the operations in which he is engaged at the time. The article presupposes the actual presence of naval or aërial forces engaged in operations, and that the measures will not be applicable to widely extended zones or to zones in which no military action is taking place.

It is also understood that the change of course provided for in the first paragraph of the article must not prevent a ship or an aircraft from continuing its voyage and from reaching its port of destination.

The article is confined in terms to neutral vessels and aircraft because the belligerent commanding officer requires no special provision to protect himself against the operations of enemy vessels and enemy aircraft.

It will be noted that the terms in which the article is drafted as well as

those employed in Articles 6 and 8 would cover neutral public vessels or aircraft. This does not imply any intention to encroach upon the rights of neutral states. It is assumed that no such neutral public vessels or aircraft would attempt to interfere in any such manner with the naval or aërial operations conducted by the forces of a state engaged in war.

Article 7

In case a belligerent commanding officer considers that the success of the operation in which he is engaged may be prejudiced by the presence of vessels or aircraft equipped with radio installations in the immediate vicinity of his armed forces or by the use of such installations therein, he may order neutral vessels or neutral aircraft on or over the high seas:

1. *To alter their course to such an extent as will be necessary to prevent their approaching the armed forces operating under his command; or*

2. *Not to make use of their radio transmitting apparatus while in the immediate vicinity of such forces.*

A neutral vessel or neutral aircraft, which does not conform to such direction of which it has had notice, exposes itself to the risk of being fired upon. It will also be liable to capture, and may be condemned if the prize court considers that the circumstances justify condemnation.

Article 8 was intended to avoid, as far as possible, the eventuality of one of the belligerents being able to find on board a neutral mobile radio station any texts of radio messages transmitted from the radio stations of the belligerents and not destined for such neutral mobile station.

Such radio messages might possess military importance, and the neutral would thus involuntarily assist one of the belligerents by furnishing him with the means of becoming acquainted with such radio messages.

The seizure of the texts, entailing as it will the removal from the official log of the pages on which the operator enters the messages transmitted and received, together with an indication of the hour of such transmission and reception, has appeared to the Commission to be a sufficient penalty in view of the fact that such a proceeding would attract the attention of the administration to which the mobile station belongs, and would show that the responsible persons in the service of that station had not obeyed the provisions of the present article.

Provision is only made for the mere removal by the belligerent of the relevant pages.

The origin of the radio messages received is shown by the indications at the beginning of the message or in the call-sign. Military stations use the indications entered in the register of the International Bureau at Berne, or else secret indications which do not appear in that official register. No written record should therefore be preserved of radio-telegrams which are preceded either by the indications of a belligerent military station or by an unknown indication.

It is to be noted that the text of this article does not exclude the application of sanctions directed against unneutral service, if it is proved that the breach of the provisions in question was committed with an intention of rendering unneutral service.

Article 8

Neutral mobile radio stations shall refrain from keeping any record of radio messages received from belligerent military radio stations, unless such messages are addressed to themselves.

Violation of this rule will justify the removal by the belligerent of the records of such intercepted messages.

In the first paragraph of Article 9 the Commission was anxious to indicate that belligerents who heard signals or messages of distress must, when deciding whether or no they would respond to such signals, take into account both their duties to humanity and their military duties.

The second paragraph is inspired solely by sentiments of humanity with a view to saving human life at sea. The text specifies clearly that every mobile station finding itself in danger or perceiving an immediate danger for other mobile stations will have the right, however it may be affected by other provisions of these rules, to transmit messages in order to ask for help or to signal the danger for navigation which it has perceived. By the words "messages which are indispensable to the safety of navigation," should be understood only such messages as are immediately necessary for preventing the collision, stranding or loss of ships or aircraft.

Article 9

Belligerents are under obligation to comply with the provisions of international conventions in regard to distress signals and distress messages so far as their military operations permit.

Nothing in these rules shall be understood to relieve a belligerent from such obligation or to prohibit the transmission of distress signals, distress messages and messages which are indispensable to the safety of navigation.

Article 10 is inserted to prevent the employment of signals and messages of distress as ruses of war. It is justified by considerations of honor and humanity. Persons who violate the rule may be punished.

Article 10

The perversion of radio distress signals and distress messages prescribed by international conventions to other than their normal and legitimate purposes constitutes a violation of the laws of war and renders the perpetrator personally responsible under international law.

The purpose of Article 11 is to show clearly that the question whether an act which involves a breach of these rules constitutes also an act of espionage

cannot be answered except by reference to the rules of international law which determine what acts amount to espionage.

Article 11

Acts not otherwise constituting espionage are not espionage by reason of their involving violation of these rules.

The purpose of Article 12 is to define clearly the position of the radio operator so far as regards personal liability to punishment. The operator works in his cabin where he executes the orders of those above him. Consequently it is right that he should incur no personal responsibility merely because he has executed orders which he has received in the discharge of his duties as radio operator. Liability to punishment for acts which contravene rules such as Articles 9 or 10 falls on those who have given the orders for such acts.

Article 12

Radio operators incur no personal responsibility from the mere fact of carrying out the orders which they receive in the performance of their duties as operators.

It has not been thought necessary to insert in the Rules an article defining the word "radio-station" or "station radio-télégraphique." The phrase is used in both texts as covering radio-telegraphic stations, radio-telephonic stations, radio-goniometric stations and generally all stations which use Hertzian waves transmitted through air, water or earth.

The Japanese Delegation submitted to the Commission the following proposal:

> The belligerent may take such measures as to render inoperative the coastal radio stations in enemy jurisdiction, irrespective of their owners.

After examining and discussing this proposal, the Commission came to the conclusion that it was not necessary to insert a special article referring to the subject. It was of opinion that the texts of other international conventions or the usages of war covered the question in all its practical aspects and gave the right to take the measures contemplated in the Japanese proposal.

The Land Warfare Regulations and the Naval Bombardment Convention, 1907 (No. IX of 1907), permit the bombardment of coastal radio stations by land or naval forces. Article 24 of the Rules for Aërial Warfare enables similar measures to be taken by the air forces against radio stations used for military purposes. Furthermore Article 53 of the Land Warfare Regulations authorizes the seizure by a belligerent in occupation of enemy territory of coastal radio stations, even if such stations belong to private individuals.

An interesting proposal was submitted by the Italian Delegation for protecting the radio-telegraphic communications of combatant forces by the establishment around them of a kind of "zone of silence." The Commission agreed that this idea was already implied in the text of Article 7, and that it was consequently not necessary to express it in a special article.

PART II

Rules of Aërial Warfare

In the preparation of the code of Rules of Aërial Warfare the Commission worked on the basis of a draft submitted by the American Delegation. A similar draft, covering in general the same ground, was submitted by the British Delegation. In the discussion of the various articles adopted by the Commission the provisions contained in each of these drafts were taken into consideration, as well as amendments and proposals submitted by other delegations.

CHAPTER I

Applicability: Classification and Remarks

No attempt has been made to formulate a definition of the term "aircraft," nor to enumerate the various categories of machines which are covered by the term. A statement of the broad principle that the rules adopted apply to all types of aircraft has been thought sufficient, and Article 1 has been framed for this purpose.

Article 1

The rules of aërial warfare apply to all aircraft, whether lighter or heavier than air, irrespective of whether they are, or are not, capable of floating on the water.

For states which are parties to the Air Navigation Convention of 1919, aircraft are divided by Article 30 into two classes, state aircraft and private aircraft, state aircraft being subdivided into military aircraft and aircraft exclusively employed in state service, such as posts, customs or police. The article also provides, however, that state aircraft, other than military, customs and police aircraft, are to be treated as private aircraft, and subject as such to all the provisions of that convention. For practical purposes, therefore, states which are parties to the Convention of 1919 divide aircraft in time of peace into three categories:

(*a*) Military aircraft.
(*b*) State aircraft employed for customs and police purposes.
(*c*) Private aircraft and such state aircraft as are employed for purposes other than those enumerated in (*b*).

The Convention of 1919 has not yet become by any means universal, but it would be so inconvenient for states, which are parties to it, to come under different rules in time of war, that account has been taken of the provisions of the convention when framing the articles adopted by the Commission.

It has also been necessary to take into account the fact that Italy has entrusted the supervision of the customs service to the military forces, a fact which has prevented the adoption of exactly the same language as that employed in Article 30 of the Convention of 1919. When read in conjunction, however, with Article 5 below, it will be found that the classification adopted

by the code of Rules of Aërial Warfare corresponds very nearly with that prescribed in Article 30 of the convention mentioned above.

Article 2

The following shall be deemed to be public aircraft:

(a) *Military aircraft.*

(b) *Non-military aircraft exclusively employed in the public service.*

All other aircraft shall be deemed to be private aircraft.

A clear distinction must be made between aircraft which form part of the combatant forces in time of war and those which do not. Each class must be easily recognizable; this is essential if the immunities to which non-combatant aircraft are entitled are to be respected. Article 3 has been framed with this object.

Article 3

A military aircraft shall bear an external mark indicating its nationality and military character.

Public non-military aircraft are not in command of persons commissioned or enlisted in the fighting forces; consequently there must be evidence on board the aircraft of the service in which they are engaged. Such evidence is afforded by their papers. It will be seen by reference to Article 51 below that aircraft of this class may be visited for the purpose of the verification of their papers.

Article 4

A public non-military aircraft employed for customs or police purposes shall carry papers evidencing the fact that it is exclusively employed in the public service. Such an aircraft shall bear an external mark indicating its nationality and its public non-military character.

Article 5 has been adopted for the purpose of regulating the position of state-owned aircraft employed in the postal service, or for commercial purposes. Such aircraft will be engaged in international traffic which should properly subject them to the same measures of control as those to which private aircraft are subject. They should also bear the same marks.

In terms the article applies to all public non-military aircraft other than those employed for customs or police purposes, following in this respect the language adopted in the last paragraph of Article 30 of the Air Navigation Convention of 1919. It is in connection with aircraft employed in the postal service or for commercial purposes that it will find its chief application.

Objection has been expressed to this article by the Netherlands Delegation on the ground that its effect will be to subject state-owned aircraft to capture and to the jurisdiction of belligerent prize courts.

Article 5

Public non-military aircraft other than those employed for customs or polic purposes shall in time of war bear the same external marks, and for the purpose of these Rules shall be treated on the same footing, as private aircraft.

Private aircraft must in time of war bear marks to indicate their nation ality and character and to enable the aircraft to be identified. It would b inconvenient that the marks to be borne in war-time should differ from thos borne in time of peace. For peace-time the marks which a private aircraf is to bear are prescribed in the Air Navigation Convention of 1919. Thi convention, however, is not universal in character and account must b taken of the position of states which are not parties to it. Nevertheless, a states, whether parties to the convention or not, will before long have enacte legislation as to the marks which aircraft of that nationality are to bea The Commission has therefore felt that it will be sufficient to lay down as th rule for time of war that aircraft must bear the marks which are prescribe by the legislation in force in their own country. Foreign Powers, whethe belligerent or neutral, are not concerned with the enforcement of that legis lation as such; that is a matter for the municipal courts of the country con cerned. The object of the article is to afford to belligerent and neutra authorities a guide as to the marks which a private aircraft must bear.

Article 6

Aircraft not comprised in Articles 3 and 4 and deemed to be private aircra shall carry such papers and bear such external marks as are required by th rules in force in their own country. These marks must indicate their nationalit and character.

Great abuses might prevail if the external marks affixed to an aircra could be altered while the machine was in flight. It is also necessary tha the marks should be clearly visible. The principles adopted in Article 7 ar in harmony with the provisions of the Air Navigation Convention of 191

Article 7

The external marks required by the above articles shall be so affixed that the cannot be altered in flight. They shall be as large as is practicable and shall b visible from above, from below, and from each side.

Each state chooses for itself the marks which its aircraft are to bear. Th marks chosen for private aircraft in time of peace by states which are partie to the Air Navigation Convention of 1919 are set out in that convention, an are generally known. It is equally important that the marks for publi aircraft, whether military or non-military, should be equally well known, an also the marks chosen for private aircraft possessing the nationality of state, which is not a party to the said convention. Notification to all othe

Powers is, therefore, provided for of the marks prescribed by the rules in force in each state.

Necessity may arise for a change in the marks adopted by each state. When that happens the change must be notified. If the change is made in time of peace, there can be no difficulty in notifying it before it is brought into force.

In time of war changes must be notified as soon as possible and at latest when they are communicated by the state concerned to its own fighting forces. It will be important to a state, which changes the marks on its military aircraft in time of war, to notify the change as quickly as possible to its own forces, as otherwise the aircraft might run the risk of being shot down by their own side. For this reason no anxiety need be felt that there will be any attempt to evade compliance with the rule.

Regret has been expressed in some quarters that any change should be allowed in time of war of the marks adopted by a particular state. The practical reasons, however, in favor of allowing such modifications are overwhelming. The marks adopted by different countries for their military machines are in some cases not very dissimilar, and if war broke out between two countries whose military machines bore marks which were not readily distinguishable, it would be essential that a modification should be made.

Article 8

The external marks, prescribed by the rules in force in each state, shall be notified promptly to all other Powers.

Modifications adopted in time of peace of the rules prescribing external marks shall be notified to all other Powers before they are brought into force.

Modifications of such rules adopted at the outbreak of war or during hostilities shall be notified by each Power as soon as possible to all other Powers and at latest when they are communicated to its own fighting forces.

Article 9 is founded upon a proposal first submitted by the Japanese Delegation; an American proposal to the same effect was submitted at a later stage. The subject of the article is one of some difficulty and one which has in times past been fruitful of discussions and disagreements in connection with warships, the Powers not having been able to agree whether the act of sovereignty involved in the commissioning of a warship might properly be exercised on the high seas (see the preamble to Convention VII of 1907).

The proposal received the support of a majority of the delegations only, the French Delegation being unable to accept it.

Article 9

A belligerent non-military aircraft, whether public or private, may be converted into a military aircraft, provided that the conversion is effected within the jurisdiction of the belligerent state to which the aircraft belongs and not on the high seas.

The proposal submitted by the Japanese Delegation would also have prevented the conversion of military aircraft into private aircraft except within the jurisdiction of the belligerent state concerned. The majority of the members of the Commission were of opinion that an article on this subject was not required. It does not seem likely that such conversion would be effected upon the high seas except for the purpose of enabling an aircraft, not otherwise entitled to do so, to enter neutral territory. There would be many practical difficulties in the way of any such conversion: not only would identity marks have to be affixed which would depend on the registration in the home state, but a civilian crew would have to be obtained and various certificates would be required, all of which should be dated. If the marks and papers belonging to some other aircraft were used, the marks and papers would be false. A fraud would have been practiced on the neutral state. Even if the proceedings were authorized by the belligerent state concerned, so that it would be valid under its own law, the marks would still be false marks so far as concerned the neutral state, and if it became aware of the fraud committed, it would be justified in disregarding the conversion.

Article 10 adopts for time of war a principle which has already been adopted for private aircraft in time of peace by Article 8 of the Air Navigation Convention of 1919.

Article 10

No aircraft may possess more than one nationality.

CHAPTER II

General Principles

Article 11 embodies the general principle that outside the jurisdiction of any state, *i.e.*, in the air-space over the high seas, all aircraft have full freedom of passage. Provisions embodied in other articles which restrict the liberty of individual aircraft are to be regarded as exceptions to this general principle.

Article 11

Outside the jurisdiction of any state, belligerent or neutral, all aircraft shall have full freedom of passage through the air and of alighting.

In time of peace many states are subject to treaty obligations requiring them to allow aircraft of other states to circulate in the air-space above their territory. In time of war a state must possess greater freedom of action. Article 12 therefore recognizes the liberty of each state to enact such rules on this subject as it may deem necessary.

Article 12

In time of war any state, whether belligerent or neutral, may forbid or regulate the entrance, movement or sojourn of aircraft within its jurisdiction.

Knowledge of the Existence of the War

Among the provisions contained in the original American draft was an article to the following effect:

> The liability of an aircraft for violation of the laws of war is contingent upon her actual or constructive knowledge of the existence of the war.

The discussions upon this article led the American Delegation to withdraw the proposal.

Knowledge of the existence of a state of war was frequently in the past an important element in deciding cases instituted in prize courts for the condemnation of a ship or goods. Sailing ships were often at sea in old days for months without touching at any port, and under such conditions it was easy for a vessel to be unaware of the outbreak of war. The question diminished in importance when steamships tended to replace sailing ships, and diminished still more in importance when wireless telegraphy was invented and fitted to sea-going ships.

With aircraft the case is different; the velocity of their flight and the small supplies of fuel which they can carry will render it unusual for a flight to exceed twelve hours in length. Cases are therefore not likely to arise in which there can be any doubt of the actual knowledge of the existence of a state of war, or in which constructive knowledge has to be relied on. Furthermore, all aircraft of important size are likely to be fitted with a wireless installation.

The Declaration of London, framed in 1909, contained provisions on this subject (see Articles 43 and 45), and it was then found necessary to deal with the matter in greater detail than is attempted in the above American proposal. Until experience shows that it is necessary to frame a rule on this subject for aircraft, it seems more prudent to leave the matter to rest on the basis of the general rules of international law.

So far as concerns neutral Powers, the Convention on the Opening of Hostilities (No. III of 1907) lays down that the existence of a state of war must be notified to neutral Powers, and that they are subject to no obligations arising therefrom until the receipt of such notification. They cannot, however, rely on the absence of any such notification, if it can be established that they were actually aware of the existence of the state of war. This provision seems adequate and satisfactory.

CHAPTER III

Belligerents

The use of privateers in naval warfare was abolished by the Declaration of Paris, 1856. Belligerent rights at sea can now only be exercised by units under the direct authority, immediate control and responsibility of the

state. This same principle should apply to aërial warfare. Belligeren rights should therefore only be exercised by military aircraft.

Article 13

Military aircraft are alone entitled to exercise belligerent rights.

Operations of war involve the responsibility of the state. Units of th fighting forces must, therefore, be under the direct control of persons re sponsible to the state. For the same reason the crew must be exclusivel military in order that they may be subject to military discipline.

Article 14

A military aircraft shall be under the command of a person duly commissione or enlisted in the military service of the state; the crew must be exclusively military

Combatant members of the armed land forces must, if they are not i uniform, wear at least a distinctive emblem. So long as the officers or crew of a military aircraft are on board the aircraft there is no risk of any doubt a to their combatant status, but if they are forced to land they may become separated from the machine. In that event it is necessary for their own protection that their combatant status should be easily recognized.

Article 15

Members of the crew of a military aircraft shall wear a fixed distinctive emblem of such character as to be recognizable at a distance in case they become separated from their aircraft.

The next article indicates the aircraft which may engage in hostilities, and forbids private aircraft from being armed when they are outside the jurisdiction of their own country.

The immunities which a belligerent is bound to respect in a non-combatant impose upon the non-combatant a corresponding obligation not to take part in hostilities. This principle applies equally to aërial warfare. If a distinction is to be drawn between military and other aircraft, the distinction must be observed on both sides, and non-military aircraft must not attempt to engage in hostilities in any form.

To give full effect to this principle, a non-military aircraft must be debarred from transmitting, during flight, military intelligence for the benefit of a belligerent. This rule will be seen to be natural and logical if the peculiar characteristics of aircraft are borne in mind. It is as scouts and observers that one of their principal uses is found in time of war. If non-military aircraft were to be allowed to act in this capacity, injury of very serious consequence might be done to the opposing belligerent. If exposed to such risk, no belligerent could agree to respect the immunities which a non-combatant aircraft should enjoy, and the only way to ensure such respect is to recognize that the transmission of military intelligence for the

benefit of a belligerent is a participation in hostilities, which would constitute a violation of the laws of war and would be dealt with accordingly.

The rule as framed has been restricted within the narrowest limits compatible with military safety. It is limited to transmission of intelligence during flight. When the flight has been completed, the individual concerned will be within the jurisdiction of some state, and there the control of the transmission of information will be subject to the regulations of that state. It will not be affected by the provisions of this article.

The mounting of arms in time of war may be construed as prima facie evidence of an intention to take part in hostilities. It is true that of recent years certain states found it necessary to arm merchant ships in self-protection, but the conditions of air warfare are so different that it has not been thought necessary to allow for such a proceeding on the part of aircraft. A gun would not be an adequate protection to an aircraft against illegal attack, as the first warning the aircraft might have of any such attack would be an act which might involve its destruction.

On the other hand, to permit private aircraft to be armed would facilitate acts of perfidy on the part of an opposing belligerent; an aircraft masquerading under false marks might suddenly open fire, and the risk of this would be sufficient to render it dangerous for an honest belligerent to respect the immunities of private aircraft to the extent which he would wish.

The interests of private aircraft are from every point of view better served by the adoption of a rule against the arming of private aircraft in time of war.

The article as framed does not extend to aircraft within the jurisdiction of their own state. Such an extension would be an unreasonable interference with the domestic jurisdiction of the state concerned.

The rule against aircraft being armed is limited to private aircraft. Public non-military aircraft engaged in customs or police work may find it necessary to carry arms because the fulfilment of their functions renders it essential for them to be able to apply coercion in case of need. In their case, the carriage of arms would raise no presumption of an intention to take part in hostilities, but they are subject just as much as private aircraft to the provisions of the first two paragraphs of the article.

Article 16

No aircraft other than a belligerent military aircraft shall engage in hostilities in any form.

The term "hostilities" includes the transmission during flight of military intelligence for the immediate use of a belligerent.

No private aircraft, when outside the jurisdiction of its own country, shall be armed in time of war.

The provisions of the Geneva Convention have been applied to maritime warfare by the Convention signed at The Hague in 1907 (Convention X of

1907). It will probably be found desirable to extend them in due course to warfare in the air and to negotiate a special convention for this purpose Pending the conclusion of any such convention, a rule has been adopted stating broadly that these conventions apply to aërial warfare. Flying ambulances should enjoy the privileges and immunities conferred by the Geneva Convention upon mobile medical units or sanitary formations The work of such flying ambulances must, of course, be carried out subject to similar conditions of belligerent control as those laid down in the Conventions of 1906 and 1907, and they must devote themselves to the task of succoring all wounded impartially in accordance with the principles embodied in these conventions. When the new special convention referred to above is concluded, the opportunity will no doubt be taken to extend to flying ambulances the exemption from dues already conferred by treaty upon hospital ships which enter a foreign port.

Article 17

The principles laid down in the Geneva Convention, 1906, and the Convention for the Adaptation of the said Convention to Maritime War (No. X of 1907) shall apply to aërial warfare and to flying ambulances, as well as to the control over flying ambulances exercised by a belligerent commanding officer.

In order to enjoy the protection and privileges allowed to mobile medical units by the Geneva Convention, 1906, flying ambulances must bear the distinctive emblem of the Red Cross in addition to the usual distinguishing marks.

CHAPTER IV

Hostilities

Article 18 is intended to clear up a doubt which arose during the recent war. The use of tracer bullets against aircraft was a general practice in all the contending armies. In the absence of a hard surface on which the bullet will strike, an airman cannot tell whether or not his aim is correct. These bullets were used for the purpose of enabling the airman to correct his aim, as the trail of vapor which they leave behind indicates to him the exact line of fire. In one case, however, combatant airmen were arrested and put on trial on the ground that the use of these bullets constituted a breach of the existing rules of war laid down by treaty.

The use of incendiary bullets is also necessary as a means of attack against lighter-than-air craft, as it is by setting fire to the gas contained by these aircraft that they can most easily be destroyed.

In the form in which the proposal was first brought forward its provisions were limited to a stipulation that the use of tracer bullets against aircraft generally was not prohibited.

Various criticisms were, however, made about the proposed text, chiefly founded on the impracticability for an airman while in flight to change the

ammunition which he is using in the machine-gun in his aircraft. He cannot employ different bullets in accordance with the target at which he is aiming, one sort of ammunition for other aircraft and another sort for land forces by whom he may be attacked.

The Commission, therefore, came to the conclusion that the most satisfactory solution of the problem would be to state specifically that the use of tracer, incendiary or explosive projectiles by or against aircraft is not prohibited.

Article 18

The use of tracer, incendiary or explosive projectiles by or against aircraft is not prohibited.

This provision applies equally to states which are parties to the Declaration of St. Petersburg, 1868, and to those which are not.

In order that there may be no doubt that the use of false external marks is not a legitimate ruse it has been specifically prohibited. By later provisions in the Rules, the use of false external marks is made a ground for capture and condemnation of a neutral aircraft.

What are here referred to are false marks of nationality or character, the marks which are dealt with in Chapter I of these Rules. The article would not apply to mere squadron badges or other emblems which are only of interest to one particular belligerent force.

Article 19

The use of false external marks is forbidden.

Another mode of injuring the enemy, which it has seemed desirable to prohibit, is that of firing at airmen escaping from a disabled aircraft.

Article 20

When an aircraft has been disabled, the occupants, when endeavoring to escape by means of a parachute, must not be attacked in the course of their descent.

Incidents took place in the recent war which showed the desirability of having a distinct rule on the question whether the dropping of leaflets for propaganda purposes was a legitimate means of warfare. Attempts were made by one belligerent to impose heavy penalties on airmen who were forced to descend within his lines after engaging in this work.

Article 21 has been framed to meet this case. It is not limited to dropping leaflets, as aircraft can disseminate propaganda by other means, such for instance, as emitting trails of smoke in the form of words in the sky.

What is legalized by the article is the use of aircraft for distributing propaganda. It does not follow that propaganda of all kinds is thereby validated. Incitements to murder or assassination will, for instance, still be considered illegitimate forms of propaganda.

Article 21

The use of aircraft for the purpose of disseminating propaganda shall not be treated as an illegitimate means of warfare.

Members of the crews of such aircraft must not be deprived of their rights as prisoners of war on the charge that they have committed such an act.

BOMBARDMENT

The subject of bombardment by aircraft is one of the most difficult to deal with in framing any code of rules for aërial warfare.

The experiences of the recent war have left in the mind of the world at large a lively horror of the havoc which can be wrought by the indiscriminate launching of bombs and projectiles on the non-combatant populations of towns and cities. The conscience of mankind revolts against this form of making war in places outside the actual theater of military operations, and the feeling is universal that limitations must be imposed.

On the other hand, it is equally clear that the aircraft is a potent engine of war, and no state which realizes the possibility that it may itself be attacked, and the use to which its adversary may put his air forces can take the risk of fettering its own liberty of action to an extent which would restrict it from attacking its enemy where that adversary may legitimately be attacked with effect. It is useless, therefore, to enact prohibitions unless there is an equally clear understanding of what constitute legitimate objects of attack, and it is precisely in this respect that agreement was difficult to reach.

Before passing to a consideration of the articles which have been agreed, mention must be made of the Declaration Prohibiting the Discharge of Projectiles and Explosives from Balloons, signed at The Hague in 1907. Three of the states represented on the Commission * are parties to that Declaration; the other three are not. Under the terms of this Declaration the contracting Powers agree to prohibit the discharge of projectiles and explosives from balloons *or by other new methods of a similar nature.* Its terms are, therefore, wide enough to cover bombardment by aircraft. On the other hand, the scope of the Declaration is very limited; in duration it is to last only until the close of the Third Peace Conference, a conference which was to have been summoned for 1914 or 1915, and its application is confined to a war between contracting states without the participation of a non-contracting state.

The existence of this Declaration can afford no solution of the problems arising out of the question of bombardment from the air, even for the states which are parties to it.

The number of parties is so small that, even if the Declaration were renewed, no confidence could ever be felt that when a war broke out it

* United States of America, Great Britain and The Netherlands.

would apply. A general agreement, therefore, on the subject of bombardment from the air is much to be desired. For the states which are parties to it, however, the Declaration exists and it is well that the legal situation should be clearly understood.

As between the parties it will continue in force and will operate in the event of a war between them, unless by mutual agreement its terms are modified, or an understanding reached that it shall be regarded as replaced by some new conventional stipulation; but it will in any case cease to operate at the moment when a Third Peace Conference concludes its labors, or if any state which is not a party to the Declaration intervenes in the war as a belligerent.

No difficulty was found in reaching an agreement that there are certain purposes for which aërial bombardment is inadmissible.

Article 22 has been formulated with this object:

Article 22

Aërial bombardment for the purpose of terrorizing the civilian population, of destroying or damaging private property not of military character, or of injuring non-combatants is prohibited.

The Naval Bombardment Convention of 1907 (No. IX) allows bombardment for enforcing payment of requisitions for supplies necessary for the immediate use of the naval forces (Article 3), but not for enforcing payment of money contributions (Article 4).

For aërial warfare it has been decided to adopt the more stringent rule of the Land Warfare Regulations.

Article 23

Aërial bombardment for the purpose of enforcing compliance with requisitions in kind or payment of contributions in money is prohibited.

Agreement on the following article specifying the objects which may legitimately be bombarded from the air was not reached without prolonged discussion. Numerous proposals were put forward by the various delegations before unanimity was ultimately attained. The text of these proposals will be found in the minutes. In particular, mention may be made of an Italian proposal of the 8th February, on which the text ultimately adopted was in great part founded. Regret was expressed by some delegations that a more far-reaching prohibition did not meet with unanimous acceptance.

The terms of the article are so clear that no explanation of the provisions is necessary, but it may be well to state that in the phrase in paragraph 2 "military establishments or depots" the word "depots" is intended to cover all collections of supplies for military use which have passed into the possession of the military authorities and are ready for delivery to the forces, "distinctively military supplies" in the succeeding phrase is intended to cover

those which by their nature show that they are certainly manufactured for military purposes.

If the code of Rules of Aërial Warfare should eventually be annexed to a convention, paragraph 5 of the article would find a more appropriate place in the convention.

It will be noticed that for aërial bombardment the test adopted in Article 25 of the Land Warfare Regulations, that of the town, &c., being defended, is abandoned. The nature of the objective or the use to which it is being put now becomes the test.

Article 24

1. *Aërial bombardment is legitimate only when directed at a military objective, that is to say, an object of which the destruction or injury would constitute a distinct military advantage to the belligerent.*

2. *Such bombardment is legitimate only when directed exclusively at the following objectives: military forces; military works; military establishments or depots; factories constituting important and well-known centers engaged in the manufacture of arms, ammunition or distinctively military supplies; lines of communication or transportation used for military purposes.*

3. *The bombardment of cities, towns, villages, dwellings or buildings not in the immediate neighborhood of the operations of land forces is prohibited. In cases where the objectives specified in paragraph 2 are so situated that they cannot be bombarded without the indiscriminate bombardment of the civilian population, the aircraft must abstain from bombardment.*

4. *In the immediate neighborhood of the operations of land forces, the bombardment of cities, towns, villages, dwellings or buildings is legitimate provided that there exists a reasonable presumption that the military concentration is sufficiently important to justify such bombardment, having regard to the danger thus caused to the civilian population.*

5. *A belligerent state is liable to pay compensation for injuries to person or to property caused by the violation by any of its officers or forces of the provisions of this article.*

Both in land warfare and in maritime warfare the principle has been adopted that certain special classes of buildings must be spared so far as possible in case of bombardment; for the former, by Article 27 of the Land Warfare Regulations, for the latter by Article 5 of the Naval Bombardment Convention of 1907 (No. IX). A similar provision, largely based on that in the Naval Bombardment Convention, has been adopted as Article 25. By day, these privileged buildings must be marked in a way which will make them visible to aircraft; the marks agreed on being those laid down in the Geneva Convention and in the Naval Bombardment Convention; the use of such marks is made obligatory so as to correspond with the duty placed on the adversary of sparing such buildings. By night, however, the use of lights to make the special signs visible is optional, because experience has shown that

such lights may serve as guides to night-flying aircraft and may thereby be of service to the enemy.

Article 25

In bombardment by aircraft, all necessary steps must be taken by the commander to spare as far as possible buildings dedicated to public worship, art, science, or charitable purposes, historic monuments, hospital ships, hospitals and other places where the sick and wounded are collected, provided such buildings, objects or places are not at the time used for military purposes. Such buildings, objects and places must by day be indicated by marks visible to aircraft. The use of marks to indicate other buildings, objects or places than those specified above is to be deemed an act of perfidy. The marks used as aforesaid shall be in the case of buildings protected under the Geneva Convention the red cross on a white ground, and in the case of other protected buildings a large rectangular panel divided diagonally into two pointed triangular portions, one black and the other white.

A belligerent who desires to secure by night the protection for the hospitals and other privileged buildings above mentioned must take the necessary measures to render the special signs referred to sufficiently visible.

A proposal was submitted by the Italian Delegation for the purpose of securing better protection from aërial bombardment for important historic monuments. During the recent war it was not found that the articles in the Land Warfare Regulations and the Naval Bombardment Convention were sufficient to prevent historic monuments from being bombarded. An unscrupulous opponent can always allege that they are being used for military purposes and ignore the written agreements accordingly. There is also the possibility that in the attack on some object which is a legitimate subject for bombardment, a historic monument in the immediate vicinity may be injured.

The Italian proposal comprised two new features, the creation of a zone round each historic monument within which the state was to be debarred from committing any act which constituted a use of the area for military purposes, and a system of inspection under neutral auspices to ensure that the undertaking was carried out, both as regards the monument itself and the zone. By this means any pretext for the bombardment would be removed, and the risk of unintentional injury would be minimized.

The proposal received the sympathetic consideration of all the delegations and it was accordingly remitted to an expert committee for more detailed consideration. Article 26 has been prepared in the light of their report.

The Italian proposal comprised not only historic but also artistic monuments. It has seemed better to omit the word "artistic" for fear lest a divergence should appear to be created between the new article and Article 25, the language of which is modeled on Article 27 of the Land Warfare Regulations and Article 5 of the Naval Bombardment Convention (No. IX

of 1907). The words "historic monument" in this article are used in a broad sense. They cover all monuments which by reason of their great artistic value are historic today or will become historic in the future.

It should be clearly understood that adoption of the system is only permissive. If a state prefers to trust only to Article 25 to secure protection of its monuments, there is no obligation upon it to notify them to other Powers in peace-time and to establish the surrounding zones which are not to be used for military purposes.

The notification must be made through the diplomatic channel. It will then be open to any state receiving the notification, if it thinks it necessary to do so, to question within a reasonable time the propriety of regarding a particular place as an historic monument. If no question is raised with regard to the monuments notified, other states will be regarded as having accepted the demand for the protection of such monuments from bombardment, and the immunity will then rest on the basis of agreement. For the same reason the notification once made must not be withdrawn after the outbreak of hostilities.

Considerable hesitation was expressed in accepting the provision that notification must be made in time of peace. It was urged that the system proposed was a new procedure, that particular monuments might be forgotten, and that more elasticity should be allowed. On the other hand, it was urged that the essence of the scheme was to get agreement as to the immunity of these monuments, and that unless notification in time of war was excluded, it was not likely that any would be notified in time of peace.

The effect of allowing a 500-meter zone to be drawn round each monument may well be that in certain special cases, as, for instance, Venice or Florence, which are particularly rich in ancient and historic monuments, a large portion of the city would be comprised within the protected zones. The zones round each monument will overlap and so create a continuous area. The subsequent provisions will, however, ensure that there is a complete absence of military use of any portion of the area so protected.

It was agreed that if the belligerents did not for military reasons place the signs indicated in the article, enemy aviators had no right by reason merely of their absence to bombard the zone in question, if it had been duly determined and notified.

In their report, the experts stated that they considered that the marks designed to indicate the zones of protection round monuments should differ in design from those prescribed by Article 25 for the historic monuments themselves. The Commission took note of this recommendation.

The prohibition against the use of the zone surrounding the monument must be very strictly interpreted. There must be a complete cessation of the use of any place, including, for instance, factories and railway lines, with a military purpose in view.

The special committee of inspection provided for by the article will be

constituted by the state which has taken advantage of the article. There would not seem to be any need to establish the committee until the outbreak of war. As these special arrangements will have to be made in order to secure full protection for its historic monuments, the state will be bound to afford to this committee the fullest opportunity for making the investigations they may think necessary.

Article 26

The following special rules are adopted for the purpose of enabling states to obtain more efficient protection for important historic monuments situated within their territory, provided that they are willing to refrain from the use of such monuments and a surrounding zone for military purposes, and to accept a special régime for their inspection:

1. *A state shall be entitled, if it sees fit, to establish a zone of protection round such monuments situated in its territory. Such zones shall in time of war enjoy immunity from bombardment.*
2. *The monuments round which a zone is to be established shall be notified to other Powers in peace-time through the diplomatic channel; the notification shall also indicate the limits of the zones. The notification may not be withdrawn in time of war.*
3. *The zone of protection may include, in addition to the area actually occupied by the monument or group of monuments, an outer zone, not exceeding 500 meters in width, measured from the circumference of the said area.*
4. *Marks clearly visible from aircraft either by day or by night will be employed for the purpose of ensuring the identification by belligerent airmen of the limits of the zones.*
5. *The marks on the monuments themselves will be those defined in Article 25. The marks employed for indicating the surrounding zones will be fixed by each state adopting the provisions of this article, and will be notified to other Powers at the same time as the monuments and zones are notified.*
6. *Any abusive use of the marks indicating the zones referred to in paragraph 5 will be regarded as an act of perfidy.*
7. *A state adopting the provisions of this article must abstain from using the monument and the surrounding zone for military purposes, or for the benefit in any way whatever of its military organization, or from committing within such monument or zone any act with a military purpose in view.*
8. *An inspection committee consisting of three neutral representatives accredited to the state adopting the provisions of this article, or their delegates, shall be appointed for the purpose of ensuring that no violation is committed of the provisions of paragraph 7. One of the members of the committee of inspection shall be the representative (or his delegate)*

of the state to which has been entrusted the interests of the opposing belligerent.

ESPIONAGE

The articles dealing with espionage follow closely the precedent of the Land Warfare Regulations.

Article 27 is a verbal adaptation of the first paragraph of Article 29 of the Regulations, so phrased as to limit it to acts committed while in the air.

Consideration has been given to the question whether there was any need to add to the provision instances of actions which were not to be deemed acts of espionage, such as those which are given at the end of Article 29 in the Regulations, and it was suggested that Article 29* of the American draft might appropriately be introduced in this manner. It was decided that this was unnecessary. The article submitted by the American Delegation was intended to ensure that reconnaissance work openly done behind the enemy lines by aircraft should not be treated as spying. It is not thought likely that any belligerent would attempt to treat it as such.

Article 27

Any person on board a belligerent or neutral aircraft is to be deemed a spy only if acting clandestinely or on false pretenses he obtains or seeks to obtain, while in the air, information within belligerent jurisdiction or in the zone of operations of a belligerent with the intention of communicating it to the hostile party.

Acts of espionage by members of the crew of an aircraft or by persons who have been carried in an aircraft may well be committed after they have left the aircraft. They will in that case be subject to the Land Warfare Regulations.

Article 28

Acts of espionage committed after leaving the aircraft by members of the crew of an aircraft or by passengers transported by it are subject to the provisions of the Land Warfare Regulations.

Two rules have been adopted in land warfare with respect to espionage which should apply equally to aërial warfare. These are that a spy cannot be punished without previous trial, and that a member of an army who commits an act of espionage and succeeds in rejoining the army cannot, if he is subsequently captured, be made responsible for the previous act of espionage. He is entitled to be treated as a prisoner of war.

Article 29

Punishment of the acts of espionage referred to in Articles 27 and 28 is subject to Articles 30 and 31 of the Land Warfare Regulations.

* Acts of the personnel of correctly marked enemy aircraft, public or private, done or performed while in the air, are not to be deemed espionage.

CHAPTER V

Military Authority over Enemy and Neutral Aircraft and Persons on Board

The rapidity of its flight would enable an aircraft to embarrass the operations of land or sea forces, or even operations in the air, to an extent which might prove most inconvenient or even disastrous to a belligerent commander. To protect belligerents from improper intrusions of this kind, it is necessary to authorize belligerent commanders to warn off the intruders, and, if the warning is disregarded, to compel their retirement by opening fire.

It is easy to see that undue hardship might be occasioned to neutrals if advantage were taken of the faculty so conferred on belligerent commanding officers and attempts were made to exclude for long or indefinite periods all neutrals from stipulated areas or to prevent communication between different countries through the air over the high seas. The present provision only authorizes a commanding officer to warn off aircraft during the duration of the operations in which he is engaged at the time. The right of neutral aircraft to circulate in the air-space over the high seas is emphasized by the provisions of Article 11, which provides that "outside the jurisdiction of any state, belligerent or neutral, all aircraft shall have full freedom of passage through the air and of alighting."

Article 30 is confined in terms to neutral aircraft, because enemy aircraft are in any event exposed to the risk of capture, and in the vicinity of military operations are subjected to more drastic treatment than that provided by this article.

It will be noticed that the terms of the article are general in character and would comprise even neutral public or military aircraft. It goes without saying that the article is not intended to imply any encroachment on the rights of neutral states. It is assumed that no neutral public or military aircraft would depart so widely from the practice of states as to attempt to interfere with or intrude upon the operations of a belligerent state.

Article 30

In case a belligerent commanding officer considers that the presence of aircraft is likely to prejudice the success of the operations in which he is engaged at the moment, he may prohibit the passing of neutral aircraft in the immediate vicinity of his forces or may oblige them to follow a particular route. A neutral aircraft which does not conform to such directions, of which he has had notice issued by the belligerent commanding officer, may be fired upon.

The power to requisition aircraft in occupied enemy territory is recognized in Article 53 of the Land Warfare Regulations. The text of Article 53 is not specific as to whether it includes neutral property, and though in practice it is regarded as doing so, it has been thought well to adopt a special rule in harmony with Article 53. It is not unreasonable that neutral owners of

property should receive payment for their property at once, as they are not concerned with the peace which will be ultimately concluded.

Article 31

In accordance with the principles of Article 53 of the Land Warfare Regulations, neutral private aircraft found upon entry in the enemy's jurisdiction by a belligerent occupying force may be requisitioned, subject to the payment of full compensation.

Property of the enemy state, which may be used for operations of war, is always liable to confiscation if it falls into the hands of the opposing belligerent. It is natural, therefore, that public aircraft of the enemy should be so treated.

Article 17 will create an exception in favor of flying ambulances as they will be protected by Article 6 of the Geneva Convention, but this exception will be subject to the principle laid down in Article 7 of the same convention that the protection accorded to mobile medical units ceases if they are made use of to commit acts harmful to the enemy.

Article 32

Enemy public aircraft, other than those treated on the same footing as private aircraft, shall be subject to confiscation without prize proceedings.

Non-military aircraft of belligerent nationality, whether public or private, should not in general be exposed to the risk of instant destruction, but should be given the opportunity to land. If they are flying in the jurisdiction of their own state and enemy military aircraft approach, they should, for their own protection, make the nearest available landing. Failure to do so exposes them to the risk of being fired upon.

Article 33

Belligerent non-military aircraft, whether public or private, flying within the jurisdiction of their own state, are liable to be fired upon unless they make the nearest available landing on the approach of enemy military aircraft.

The preceding article has dealt with the case of belligerent non-military aircraft flying in the jurisdiction of their own state. Article 34 deals with the same category of aircraft in certain other circumstances. If such aircraft are in the immediate vicinity of the territory of the enemy state, or in the immediate vicinity of its military operations by land or sea, they run the risk of being fired upon. They are, of course, liable to capture by reason of their enemy status, but in an area where it is probable that military operations will be in progress, or in any place where they are actually in progress, non-combatant aircraft of belligerent nationality can only proceed at their own risk. By their mere presence they expose themselves to the risk of being fired upon.

Article 34

Belligerent non-military aircraft, whether public or private, are liable to be fired upon, if they fly (1) *within the jurisdiction of the enemy, or* (2) *in the immediate vicinity thereof and outside the jurisdiction of their own state, or* (3) *in the immediate vicinity of the military operations of the enemy by land or sea.*

The principle has already been recognized in Article 30 that a belligerent commanding officer may warn off neutral aircraft from the immediate vicinity of his military operations. If they fail to comply with such a warning, they run the risk of being fired upon. Article 35 deals with neutral aircraft which may be flying within the jurisdiction of a belligerent country at a moment when military aircraft of the opposing belligerent approach. If warned of the approach of such military aircraft, it is their duty to make a landing; otherwise they might hamper the movements of the combatants and expose themselves to the risk of being fired upon. They are not, however, exposed to the risk of capture and condemnation as are neutral aircraft failing to comply with directions issued by a belligerent commander under Article 30.

Article 35

Neutral aircraft flying within the jurisdiction of a belligerent, and warned of the approach of military aircraft of the opposing belligerent, must make the nearest available landing. Failure to do so exposes them to the risk of being fired upon.

Article 36 regulates the position of members of the crew and of passengers of an enemy aircraft which falls into the hands of a belligerent.

If the aircraft is a military aircraft, the crew will consist of members of the military forces and will, of course, be made prisoners of war. Any passengers will share the same fate, because in time of war a belligerent state would not be using its military aircraft for carrying non-combatant individuals unless their journey was a matter of importance to the state. Combatant passengers would naturally be made prisoners of war.

In the case of public non-military aircraft, the same principle applies. It is true that the members of the crew may not be members of the military forces, but they constitute part of the state organization. As to passengers, they would not be carried on such aircraft, except for government purposes. There is, however, one important exception. A state-owned passenger-carrying aircraft line is not by any means an unlikely development and, if such should be instituted, there would be no reason to apply this principle to all the passengers on such aircraft. They should only be made prisoners of war if in the service of the enemy, or enemy nationals fit for military service.

As regards private aircraft, it must be remembered that the crew will consist of trained men, constituting a reserve upon which the belligerent

can draw in case of need. If they are of enemy nationality, or in the service of the enemy, there is good reason to hold them as prisoners of war. If they are neutrals not in the service of the enemy, they are by their service on board an enemy aircraft releasing other men for military purposes. If they are to be given their release, the belligerent should be entitled to protect himself in the future against such indirect assistance by exacting an undertaking from each individual against his serving in an enemy aircraft during the remainder of the war. Such an undertaking corresponds to that provided for in the second paragraph of Article 5 of the Convention concerning Restrictions on the Right of Capture in Maritime War (No. XI of 1907). It was adopted there only for the officers of a merchant vessel, because the officers are the highly trained men. In the case of aircraft, it is reasonable to extend it to all the members of the crew.

What is said in the report on Article 37 dealing with the crew and passengers of *neutral* private aircraft as to temporary delay in effecting the release in certain cases and as to members of the crew or passengers who have rendered special services to the belligerent being made prisoners of war, applies also in the case of the crew and passengers of an enemy aircraft.

Article 36

When an enemy military aircraft falls into the hands of a belligerent, the members of the crew and the passengers, if any, may be made prisoners of war.

The same rule applies to the members of the crew and the passengers, if any, of an enemy public non-military aircraft, except that in the case of public non-military aircraft devoted exclusively to the transport of passengers, the passengers will be entitled to be released unless they are in the service of the enemy, or are enemy nationals fit for military service.

If an enemy private aircraft falls into the hand of a belligerent, members of the crew who are enemy nationals or who are neutral nationals in the service of the enemy, may be made prisoners of war. Neutral members of the crew, who are not in the service of the enemy, are entitled to be released if they sign a written undertaking not to serve in any enemy aircraft while hostilities last. Passengers are entitled to be released unless they are in the service of the enemy or are enemy nationals fit for military service, in which cases they may be made prisoners of war.

Release may in any case be delayed if the military interests of the belligerent so require.

The belligerent may hold as prisoners of war any member of the crew or any passenger whose service in a flight at the close of which he has been captured has been of special and active assistance to the enemy.

The names of individuals released after giving a written undertaking in accordance with the third paragraph of this article will be notified to the opposing belligerent, who must not knowingly employ them in violation of their undertaking.

When circumstances have arisen which have led to the detention of a neutral private aircraft by a belligerent, the question will arise of the treatment to be meted out to the crew and to the passengers, if any, of such aircraft. In general, the crew of an aircraft will be very expert individuals, whose services would be of great value to a belligerent. If they are of enemy nationality or in the service of the enemy, or engaged in a violation of neutrality, there is good reason for detaining them as prisoners of war. If not, they should be released unconditionally.

Passengers who are in the service of the enemy or who are enemy nationals fit for military service may likewise be detained.

Immediate release of persons who cannot be made prisoners of war may not in all cases be feasible. The fact that military exigencies may necessitate a temporary delay in according release does not prejudice the right to such release in due course.

The peculiar characteristics of aircraft may enable members of the crew or passengers in a neutral aircraft in time of war to render services of special importance to a belligerent. Where such services have been rendered in the course of the flight in which such persons were captured, the individuals may be made prisoners of war, whatever their nationality.

The rules adopted on this subject are in conformity with the practice of the recent war, but they have not secured unanimous assent. The Netherlands Delegation has felt unable to accept them for two reasons, *viz.*, firstly, that they constitute an extension of the accepted rules of international law, and, secondly, because of the absence of any provision to the effect that where the detention of the aircraft has taken place in circumstances which are subsequently made the subject of prize court proceedings, and the capture is held to be invalid, the crew and passengers of the aircraft should be released unconditionally.

Article 37

Members of the crew of a neutral aircraft which has been detained by a belligerent shall be released unconditionally, if they are neutral nationals and not in the service of the enemy. If they are enemy nationals or in the service of the enemy, they may be made prisoners of war.

Passengers are entitled to be released unless they are in the service of the enemy or are enemy nationals fit for military service, in which cases they may be made prisoners of war.

Release may in any case be delayed if the military interests of the belligerent so require.

The belligerent may hold as prisoners of war any member of the crew or any passenger whose service in a flight at the close of which he has been captured has been of special and active assistance to the enemy.

The phrase "prisoner of war" in its narrower sense is applied to the combatant and non-combatant members of the armed forces of the belligerent

(see Article 3 of the Land Warfare Regulations). It is used in Articles 36 and 37 in a broader sense and is applied to passengers or members of the crew of neutral and enemy aircraft who may not be members of the belligerent armed forces at all. To avoid any risk of doubt as to the treatment to which such persons are entitled Article 38 lays down that their treatment shall not be less favorable than that to which members of the armed forces are entitled.

Article 38

Where under the provisions of Articles 36 and 37 it is provided that members of the crew or passengers may be made prisoners of war, it is to be understood that, if they are not members of the armed forces, they shall be entitled to treatment not less favorable than that accorded to prisoners of war.

CHAPTER VI

Belligerent Duties Towards Neutral States and Neutral Duties Towards Belligerent States

To avoid any suggestion that it is on the neutral government alone that the obligation is incumbent to secure respect for its neutrality, Article 39 provides that belligerent aircraft are under obligation to respect the rights of neutral Powers and to abstain from acts within neutral jurisdiction which it is the neutral's duty to prevent.

It will be noticed that the article is not limited to military aircraft; in fact, the second phrase will apply only to belligerent aircraft of other categories, as it is they alone which may remain at liberty within neutral jurisdiction. All aircraft, however, including military, are bound to respect the rights of neutral Powers.

Article 39

Belligerent aircraft are bound to respect the rights of neutral Powers and to abstain within the jurisdiction of a neutral state from the commission of any act which it is the duty of that state to prevent.

The principle that belligerent military aircraft should not be allowed to enter or circulate in neutral jurisdiction met with ready acceptance. It is in conformity with the rule adopted by the European states during the recent war.

The immunities and privileges which Article 17 confers on flying ambulances will enable the neutral state to admit them to its jurisdiction, if it sees fit.

Article 40

Belligerent military aircraft are forbidden to enter the jurisdiction of a neutral state.

The customary rules of international law authorize the admission of

belligerent warships to neutral ports and waters. There is no obligation upon neutral states to admit warships belonging to belligerent states, but it is not in general refused. The admission of belligerent military aircraft, however, is prohibited by Article 40, and account must therefore be taken of the fact that it has now become the practice for warships to have a certain number of aircraft assigned to them and that these aircraft usually rest on board the warship. While they remain on board the warship they form part of it, and should be regarded as such from the point of view of the regulations issued by the neutral states. They will therefore be allowed to enter the neutral jurisdiction on the same footing as the warship on board which they rest, but they must remain on board the warship and must not commit any act which the warship is not allowed to commit.

Article 41

Aircraft on board vessels of war, including aircraft-carriers, shall be regarded as part of such vessels.

The principle is well established in land warfare that combatant forces of a belligerent must not penetrate within neutral jurisdiction. If they do, they are beyond the reach of their enemy: they have entered what is to them an asylum, and consequently, if after their visit to neutral territory they were allowed to re-enter hostilities, they would be making use of neutral territory to the detriment of their adversary.

From this principle arises a duty, which is incumbent on all neutral states, to do what they can to prevent combatant forces from entering their jurisdiction, and to intern those which do. These principles are recognized and adopted for aërial warfare by Article 42. The obligation to intern covers also aircraft which were within the neutral jurisdiction at the outbreak of hostilities.

Where aircraft and their personnel are in distress and seek shelter in neutral territory, knowing that their fate will be internment, or where the entry is due to the fact that the aircraft has lost its bearings or experienced engine trouble or run out of fuel, the neutral state is under no obligation to exclude them; it is, in fact, morally bound to admit them. This is due to the principle that those who are in distress must be succored. The prohibition in the article is aimed at those who enter in violation of the rights of the neutral state.

The prohibition on entry into neutral jurisdiction leads naturally to the further obligation incumbent upon neutral states to enforce compliance with the rule. It is beyond the power of any neutral state to ensure that no belligerent military aircraft will ever violate its neutrality; its obligation is limited to the employment of the means at its disposal, conforming in this respect to the phraseology employed in the Convention dealing with the Rights and Duties of Neutral Powers in Maritime War (No. XIII of 1907).

The provision in the article is limited to military aircraft because it is only in respect of such craft that the prohibition on entry is absolute. Under Article 12 the admission of private or public non-military aircraft is within the discretion of the neutral state. Where such aircraft penetrate within neutral jurisdiction in violation of the measures prescribed by the neutral Power, they will be subject to such penalties as the neutral Power may enact these may or may not include internment. Recognition of this fact has enabled the Commission to omit a provision which figured as Article 11 in the American draft:

> A neutral government may intern any aircraft of belligerent nationality not conforming to its regulations.

The obligation on the part of the neutral Power to intern covers not only the aircraft, but its equipment and contents. The obligation is not affected by the circumstance which led to the military aircraft coming within the jurisdiction. It applies whether the belligerent aircraft entered neutral jurisdiction, voluntarily or involuntarily, and whatever the cause. It is an obligation owed to the opposing belligerent and is based upon the fact that the aircraft has come into an area where it is not subject to attack by its opponent.

The only exceptions to the obligation to intern an aircraft are those arising under Articles 17 and 41. The first relates to flying ambulances. Under the second, an aircraft on board a warship is deemed to be part of her, and therefore will follow the fate of that warship if she enters neutral ports or waters. If she enters under circumstances which render her immune from internment, such aircraft will likewise escape internment.

The obligation to intern belligerent military aircraft entering neutral jurisdiction entails also the obligation to intern the personnel. These will in general be combatant members of the belligerent fighting forces, but experience has already shown that in time of war military aëroplanes are employed for transporting passengers. As it may safely be assumed that in time of war a passenger would not be carried on a belligerent military aircraft unless his journey was a matter of importance to the government, it seems reasonable also to comprise such passengers in the category of persons to be interned.

Article 42

A neutral government must use the means at its disposal to prevent the entry within its jurisdiction of belligerent military aircraft and to compel them to alight if they have entered such jurisdiction.

A neutral government shall use the means at its disposal to intern any belligerent military aircraft which is within its jurisdiction after having alighted for any reason whatsoever, together with its crew and the passengers, if any.

Under Article 15 of the Convention for the Adaptation of the Principles of the Geneva Convention to Maritime War (No. X of 1907), the ship

wrecked, wounded or sick members of the crew of a belligerent warship, who are brought into a neutral port, must be interned. The same rule is applied by Article 43 to the personnel of a disabled belligerent military aircraft, when the men are brought in on board a military aircraft. It goes without saying that such individuals could not be brought in and landed at a neutral port without the consent of the neutral authorities.

Article 43

The personnel of a disabled belligerent military aircraft rescued outside neutral waters and brought into the jurisdiction of a neutral state by a neutral military aircraft and there landed shall be interned.

The principle is well established in international law that in time of war a government, which remains neutral, must not itself supply to a belligerent government arms or war material. For aërial warfare effect is given to this principle by the following article:

Article 44

The supply in any manner, directly or indirectly, by a neutral government to a belligerent Power of aircraft, parts of aircraft, or material, supplies or munitions required for aircraft is forbidden.

No obligation rests on a neutral state to prevent the purchase by a belligerent government of articles of contraband from persons within the neutral jurisdiction. The purchase of contraband under such conditions constitutes a commercial transaction which the neutral government is under no obligation to prevent, although the opposing belligerent may take such means as international law authorizes to intercept the delivery of the articles to his enemy. This principle has already been embodied in Article 7 of the Convention concerning the Rights and Duties of Neutral Powers in Land War (Convention V of 1907) and in Article 7 of the corresponding Convention for Maritime War (Convention XIII of 1907). To apply it to aërial warfare, the following article has been adopted:

Article 45

Subject to the provisions of Article 46, a neutral Power is not bound to prevent the export or transit on behalf of a belligerent of aircraft, parts of aircraft, or material, supplies or munitions for aircraft.

An exception to the principle that a neutral state is under no obligation to prevent the export of arms and war material, is found in the accepted rule of international law that neutral territory must not be utilized as a base of operations by a belligerent government, and that the neutral state must therefore prevent the fitting out or departure from its jurisdiction of any hostile expedition intended to operate on behalf of one belligerent against the other. Such an expedition might consist of a single aëroplane, if manned

and equipped in a manner which would enable it to take part in hostilities, or carrying or accompanied by the necessary elements of such equipment. Consequently, its departure under circumstances which would constitute the despatch of a hostile expedition, must be prevented by the neutral government.

It is easy to see that it is aircraft which have flown out of the neutral jurisdiction, which are most likely to engage in hostilities in some form before delivery to the belligerent purchaser in the belligerent state, and it is in these cases that the neutral government must take special precautions. All risk will be avoided if the aircraft, dispatched to the order of a belligerent Power, does not come within the neighborhood of the operations of the opposing belligerent. The neutral state should therefore prescribe the route which the aircraft is to follow. This alone, however, will not be sufficient. The aircraft might ignore the instructions it receives. Guarantees for compliance must therefore be exacted. It will be for the neutral state to determine the guarantees which it thinks necessary, but they must be effective guarantees, such, for instance, as insisting on the aircraft carrying a representative of the government to see that the route indicated is followed.

To meet these requirements, the following article has been adopted:

Article 46

A neutral government is bound to use the means at its disposal:

1. *To prevent the departure from its jurisdiction of an aircraft in a condition to make a hostile attack against a belligerent Power, or carrying or accompanied by appliances or materials the mounting or utilization of which would enable it to make a hostile attack, if there is reason to believe that such aircraft is destined for use against a belligerent Power.*
2. *To prevent the departure of an aircraft the crew of which includes any member of the combatant forces of a belligerent Power.*
3. *To prevent work upon an aircraft designed to prepare it to depart in contravention of the purposes of this article.*

On the departure by air of any aircraft despatched by persons or companies in neutral jurisdiction to the order of a belligerent Power, the neutral government must prescribe for such aircraft a route avoiding the neighborhood of the military operations of the opposing belligerent, and must exact whatever guarantees may be required to ensure that the aircraft follows the route prescribed.

The height to which aircraft can ascend would enable them to be used for observation purposes from a spot within neutral jurisdiction, *i.e.*, within the air-space above neutral territory or territorial waters, if hostilities were in progress close to the frontier between two states. Such proceedings might be extremely harmful to belligerent interests, and if the observations were made on behalf of one of the belligerents and for the purpose of supplying him with information, would amount to an improper use of neutral territory. To meet this contingency, the following provision has been adopted:

Article 47

A neutral state is bound to take such steps as the means at its disposal permit to prevent within its jurisdiction aërial observation of the movements, operations or defenses of one belligerent, with the intention of informing the other belligerent.

The prohibition of aërial observation within neutral territory on belligerent account must apply equally to the case of aircraft on board belligerent warships when in neutral waters. To avoid all misconception on this point, the following paragraph has been added:

This provision applies equally to a belligerent military aircraft on board a vessel of war.

The measures which a neutral government may be obliged to take to compel respect for its rights may entail the use of force; fire may have to be opened on foreign aircraft, even military aircraft of another state. Following the analogy of Article 10 of Convention V of 1907 (Rights and Duties of Neutral Powers in Land War) and Article 26 of Convention XIII (Rights and Duties of Neutral Powers in Maritime War), it has been thought well to declare that the measures, even of force, taken by a neutral Power for this purpose cannot be regarded as acts of war. Still less could they be regarded as unfriendly acts, seeing that they are taken in specific exercise of rights conferred or recognized by treaty.

It may be well to add that the neutral government will not be responsible for any injury or damage done to the aircraft or other object.

Article 48

The action of a neutral Power in using force or other means at its disposal in the exercise of its rights or duties under these Rules cannot be regarded as a hostile act.

CHAPTER VII

Visit and Search, Capture and Condemnation

Both the American and British drafts when first submitted to the Commission provided for the use of aircraft in exercising against enemy commerce the belligerent rights which international law has sanctioned. This principle has not met with unanimous acceptance; the Netherlands Delegation has not felt able to accept it. The stand-point adopted by this delegation is that the custom and practice of international law is limited to a right on the part of belligerent warships to capture after certain formalities merchant vessels employed in the carriage of such commerce. No justification exists for the extension of those rights to an aircraft, which is a new engine of war entirely different in character from a warship and unable to exercise over merchant vessels or private aircraft a control similar to that exercised by a warship over merchant vessels. Consequently there is no reason to confer on a military aircraft the right to make captures as if it were a warship, and

no reason to subject commerce to capture when carried in an aircraft. In developing international law the tendency should be in the direction of conferring greater, not less, immunity on private property.

For these reasons the Netherlands Delegation has not accepted the rules contained in Chapter VII and its participation in the discussion of individual rules has been subject to the general reserves made with regard to the whole chapter.

The majority of the delegations have not felt able to reject the principle that the aircraft should be allowed to exercise the belligerent right of visit and search, followed by capture where necessary, for the repression of enemy commerce carried in an aircraft in cases where such action is permissible. This principle is embodied in Article 49, of which the text is as follows:

Article 49

Private aircraft are liable to visit and search and to capture by belligerent military aircraft.

No article on the subject of the exercise by belligerent military aircraft of the right of visit and search of merchant vessels has secured the votes of a majority of the delegations, and therefore no article on the subject is included in the code of Rules. Nevertheless, all the delegations are impressed with the necessity of surrounding with proper safeguards the use of aircraft against merchant vessels. Otherwise excesses analogous to those which took place during the recent war might be reproduced in future wars.

The reason why no agreed text has been adopted by the Commission is due to divergence of view as to what action an aircraft should be permitted to take against a merchant vessel.

The aircraft in use today are light and fragile things. Except in favorable circumstances they would not be able to alight on the water and send a man on board a merchant vessel at the spot where the merchant vessel is first encountered (*visite sur place*). To make the right of visit and search by an aircraft effective it would usually be necessary to direct the merchant vessel to come to some convenient locality where the aircraft can alight and send men on board for the purpose. This would imply a right on the part of the belligerent military aircraft to compel the merchant vessel to deviate from her course before it was in possession of any proofs derived from an examination of the ship herself and her papers that there were circumstances of suspicion which justified such interference with neutral trade. If the deviation which the merchant vessel was obliged to make was prolonged, as might be the case if the aircraft was operating far from land, the losses and inconvenience imposed on neutral shipping would be very heavy.

Is or is not a warship entitled to oblige a merchant vessel to deviate from her course for the purpose of enabling the right of visit and search to be

carried out? Would an aircraft be exercising its rights in conformity with the rules to which surface warships are subject if it obliged a merchant vessel to deviate from her course in this way? Even if a warship is entitled on occasion to oblige a merchant vessel to deviate from her course before visiting her, can a similar right be recognized for military aircraft without opening the door to very great abuses?

These are the questions upon which the views entertained by the delegations differed appreciably, and indicate the reasons why it was not found possible to devise any text on which all parties could agree.

The French Delegation declared that aircraft must conform to the rules to which surface warships are subject.

The French Delegation proposed the following text:

> Aircraft are forbidden to operate against merchant vessels, whether surface or submarine, without conforming to the rules to which surface warships are subject.

In view of the differences of opinion manifested in regard to the above questions, the delegation regarded this formula as the only one which was likely to receive the support of a majority of the Commission.

The American Delegation considered that a merchant vessel should be boarded when she is encountered, but maintained that, even if a departure from this rule might in exceptional circumstances be permitted in visit and search by surface ships, a similar concession to aircraft, with their limited means of boarding, would readily have the effect of converting the exception into the rule. They stated that they were not advised of anything in the record of the Washington Conference showing an intention to authorize surface ships or submarines to divert merchant vessels, without boarding them, to a port for examination; but that, were the case otherwise, the Washington Conference had decided that the subject of aircraft, which presented difficulties of its own and which might involve questions different from those pertaining even to submarines, should be dealt with separately; and that to permit aircraft, with their rapidity and range of flight, to control and direct by orders enforceable by bombing, and without visit and search, the movement of merchant vessels on the high seas would, in their opinion, give rise to an inadmissible situation.

The American Delegation, therefore, proposed the following text:

> Aircraft are forbidden to visit and search surface or sub-surface vessels without conforming in all respects to the rules to which surface vessels authorized to conduct visit and search are subject.
>
> In view of the irregularities to which the use of aircraft against merchant vessels might give rise, it is declared that aircraft cannot divert a merchant vessel from its course without first boarding it; that in no event may an aircraft destroy a merchant vessel unless the crew and passengers of such vessel have first been placed in safety; and that if an aircraft cannot capture a merchant vessel in conformity with these rules it must desist from attack and from seizure and permit such vessel to proceed unmolested.

The British Delegation maintained that the problem connected with visit and search of merchant vessels by aircraft was analogous to that of the exercise of such right by submarines, and that the most satisfactory solution of the problem would be to apply *mutatis mutandis* the wording of Article 1 of the treaty signed at Washington on the 6th February, 1922, for the protection of the lives of neutrals and non-combatants at sea in time of war.

This delegation maintained that by using the language of that treaty, as proposed, the question of the right to oblige a merchant vessel to deviate to a reasonable extent would be solved because the wording adopted at Washington had been modified so as to admit this right. The British Delegates proposed the following text:

> The use of aircraft against merchant vessels must be regulated by the following provisions, which, being in conformity with the rules adopted by civilized nations for the protection of the lives of neutrals and non-combatants at sea in time of war, are to be deemed an established part of international law:
>
> A merchant vessel must be ordered to submit to visit and search to determine its character before it can be seized.
>
> A merchant vessel must not be attacked unless it refuses to submit to visit and search after warning or to proceed as directed after seizure.
>
> A merchant vessel must not be destroyed unless the crew and passengers have first been placed in safety.
>
> Belligerent aircraft are not under any circumstances exempt from the universal rules above stated; and if an aircraft cannot capture a merchant vessel in conformity with these rules, the existing law of nations requires it to desist from attack and from seizure and to permit the merchant vessel to proceed unmolested.

The Japanese view was based on the practical difficulty in the way of exercise of the right of visit and search by aircraft. Visit and search is a necessary preliminary to capture, and unless an aircraft is physically capable of carrying it out, the recognition of the right of military aircraft to conduct operations against merchant vessels may lead to a recurrence of the excesses practiced against enemy and neutral merchant vessels in the submarine campaign initiated during the recent war. Therefore, the Japanese Delegation preferred not to recognize the right at all. But, in the end, as the amended American text* removed the greater part of their fear of possible abuse, they expressed readiness to accept it, and suggested at the same time that the text had better be completed by the addition of the last sentence of the British text.

The Italian Delegation accepted the British point of view; it maintained that diversion of merchant vessels by surface warships was recognized and that the wording of the Washington Treaty should be repeated. To prevent any abusive exercise of the right by aircraft, the Italian Delegation proposed to add the following sentences to the paragraphs of the Washington Treaty as set out in the British text:

* See Minute 105. [Not printed in this Supplement.—Ed.]

After the first paragraph add—

> Visit must in general be carried out where the merchant vessel is first encountered. Nevertheless, in cases where it may be impossible to alight and there is at the same time good ground for suspicion, the aircraft may order the merchant vessel to deviate to a suitable locality, reasonably accessible, where she may be visited. If no good cause for this action is shown, the belligerent state must pay compensation for the loss caused by the order to deviate.

After the third paragraph add—

> If the merchant vessel is in the territorial waters of the enemy state and not on the high seas, she may be destroyed after previous notice has been given to the persons on board to put themselves in a place of safety and reasonable time has been given them for so doing.

The Italian Delegation also intimated that for the sake of arriving at an agreement, it would vote in favor of the French text given above. In accepting it, however, it declared: (1) that in the existing practice of maritime war the majority of European Powers admitted that, if visit on the spot where the merchant vessel was encountered was impossible, surface warships are entitled to oblige merchant vessels to deviate to a suitable spot where the visit can take place; (2) that, even if it is not desired to rest on the maritime practice indicated above, the Italian Delegation must maintain the right of belligerent aircraft to exercise the right of visit in accordance with the texts of the amendments proposed.

The Netherlands Delegation accepted the American proposal as the one which limited most narrowly the exercise of belligerent rights by aircraft.

When put to the vote the American proposal was supported by the Japanese and Netherlands Delegations and opposed by the British, French and Italian. The French proposal was opposed by the American, British, Japanese and Netherlands Delegations. The British and Italian Delegations explained that they could only support it if it was amplified in the way indicated in the British and Italian amendments.

Although all the delegations concurred in the expression of a desire to adopt such rules as would assure the observance of the dictates of humanity as regards the protection of the lives of neutrals and non-combatants, the Commission, by reason of a divergence of views as to the method by which this result would best be attained, was unable to agree upon an article dealing with the exercise of belligerent rights by aircraft against merchant vessels. The code of Rules proposed by the Commission therefore leaves the matter open for future regulation.

While aircraft are in flight in the air, the operation of visit and search cannot be effected so long as aircraft retain their present form. Article 49 therefore necessitates the recognition of a right on the part of belligerent military aircraft to order non-military aircraft to alight in order that the right of visit and search may be exercised. They must not only be ordered

to alight, but they must be allowed to proceed to a suitable locality for the purpose. It would be a hardship to the neutral if he was obliged to make a long journey for this purpose and the locality must, therefore, not only be suitable, but must be reasonably accessible—that is, reasonably convenient of access. A more precise definition than this can scarcely be given; what is reasonably convenient of access is a question of fact to be determined in each case in the light of the special circumstances which may be present. If no place can be found which is reasonably convenient of access, the aircraft should be allowed to continue its flight.

As is the case with merchant vessels, a refusal to comply with such belligerent directions will expose the aircraft to the use of force for the purpose of insisting on compliance. Just as the belligerent right has received universal acceptance in maritime war, so is the principle admitted that the neutral vessel is under a duty to submit to it and if in consequence of her failure to do so she is damaged or sunk, she has no right to complain, seeing that she has failed to comply with an obligation imposed upon her by the law of nations. This principle does not, however, entitle a belligerent to apply force unnecessarily. His measures of coercion must be limited to what is reasonably required to secure the fulfilment of his object.

It is for this reason that a warship always fires a shot across the bows of a vessel before attempting to hit the vessel herself, and, even when obliged to fire at the vessel herself, must still take all measures within her power to rescue the crew and passengers. Recognition of a similar right on the part of aircraft to apply force must be conditioned by the obligation on the part of the aircraft not to apply force to a greater extent than is necessary. It would be so easy for the aircraft to take measures which might at once entail the destruction of the aircraft and the loss of life of everybody therein that it is essential to recognize the principle that force must only be employed to the extent which is reasonably necessary.

Article 50

Belligerent military aircraft have the right to order public non-military and private aircraft to alight in or proceed for visit and search to a suitable locality reasonably accessible.

Refusal, after warning, to obey such orders to alight or to proceed to such a locality for examination exposes an aircraft to the risk of being fired upon.

The next article deals with the position of a neutral public non-military aircraft. The future of commercial aviation may involve the establishment of state-owned lines of aircraft for commercial purposes. The principle has already been recognized that such aircraft must be treated upon the same footing as private aircraft. Their subjection to the exercise of the right of visit and search and capture must, therefore, be assured. Where public non-military aircraft are not used for commercial purposes, the general rule must

apply according to which a belligerent warship can only visit the public vessels of a friendly Power so far as may be necessary for the purpose of ascertaining their character, *i.e.*, by the verification of their papers.

Article 51

Neutral public non-military aircraft, other than those which are to be treated as private aircraft, are subject only to visit for the purpose of the verification of their papers.

Article 52 applies to aircraft in time of war the principle which already obtains in the case of merchant vessels, namely, that an enemy merchant vessel is liable to capture in all circumstances.

Article 52

Enemy private aircraft are liable to capture in all circumstances.

The next article deals with the grounds upon which a neutral private aircraft may be captured.

(*a*) The first is where it resists the legitimate exercise of belligerent rights. This is in harmony with Article 63 of the Declaration of London. As first submitted to the Commission, the text included the words "or flees." On due consideration, however, these words were omitted. The reasons for this omission cannot be stated better than is done in the report on Article 63 of the Declaration of London, prepared by M. Renault:

> If the vessel is stopped, and it is shown that it was only in order to escape the inconvenience of being searched that recourse was had to flight, and that beyond this she had done nothing contrary to neutrality, she will not be punished for her attempt at flight. If, on the other hand, it is established that the vessel has contraband on board, or that she has in some way or other failed to comply with her duty as a neutral, she will suffer the consequences of her infraction of neutrality, but in this case, as in the last, she will not undergo any punishment for her attempt at flight. Expression was given to the contrary view, namely, that a ship should be punished for an obvious attempt at flight as much as for forcible resistance. It was suggested that the prospect of having the escaping vessel condemned as good prize would influence the captain of the cruiser to do his best to spare her. But in the end this view did not prevail.

(*b*) The second ground for capture is that of the failure of a neutral aircraft to comply with directions given by a belligerent commanding officer enjoining the withdrawal of neutral aircraft from the immediate vicinity of his military operations. By the terms of Article 30, a neutral aircraft disregarding such a prohibition is exposed to the risk of being fired upon. It might well be thought that such risk would involve a sufficient deterrent without rendering non-compliance a ground of capture. The reason why capture has been added is due to the peculiar circumstances of warfare in the air. The right to oblige aircraft to avoid the scene of military operations

would only be made use of in cases where it was a matter of importance to the belligerent to ensure their absence, and consequently where effective measures must be taken to secure compliance. If a neutral private aircraft is to be fired upon for this purpose, it is desirable to render it as little likely as possible that it shall be fired upon in a way that will involve its destruction. If the airman knows that the aircraft, when forced to alight, may be made the subject of capture, he is less tempted to secure observance of the rule by firing in a way which will involve the destruction of the aircraft.

(*c*) The third ground for capture is where the aircraft is engaged in unneutral service. This phrase "unneutral service" formed the subject of careful consideration in the Naval Conference of London in 1908 and 1909, at the time when the Declaration of London was framed. The meaning attached to the term by the Commission in the preparation of the present text is that used in Articles 45 and 46 of that Declaration, the intention being to render those articles applicable in the case of similar action on the part of aircraft. For instance, it will cover an act amounting to taking a direct part in hostilities, such as that mentioned in the second paragraph of Article 16. The Commission would also refer to that portion of the Report on the Declaration of London which deals with unneutral service (Articles 45 and 46) as they are in entire concurrence with it.

(*d*) The fourth ground for capture is that a neutral private aircraft is armed in violation of Article 16, which stipulates that outside its own jurisdiction a private aircraft must not be armed. The carriage of arms by a private aircraft under such circumstances gives rise to a well-founded suspicion of an intention to take part in hostilities in violation of the laws of war.

(*e*) The fifth ground for capture is that an aircraft has no marks or is bearing false marks in violation of Article 19.

(*f*) The sixth ground for capture is the absence or irregularity of the papers of the aircraft. This rule is in accordance with that which prevails in maritime warfare. The papers which must be carried are indicated with greater precision in Article 54.

(*g*) The seventh ground for capture is that of an aircraft being found manifestly out of the proper line of its flight as indicated by its papers and where no sufficient reason is found for its presence in that locality. The importance of this rule from the point of view of aërial warfare is due to the ease with which aircraft can be used for reconnaissance work, even though they may be masquerading as neutral aircraft engaged on innocent occupations. It may well be that in any particular case the aircraft will be able to establish the innocence of its presence. It may have been blown out of its course; it may have been compelled to make a deviation to secure supplies; it may even have intentionally deviated for the purpose of avoiding an area in which it considered that military operations were possible. It is therefore to the interests of both parties—the belligerent and the neutral—that ample opportunity for inquiry should be given to the belligerent before exercising

his right of capture. It will only be where the results of such investigations show that there is good cause for suspicion that the aircraft was engaged in some improper operations that capture will be resorted to.

(*h*) The eighth ground for capture is where the neutral private aircraft carries, or itself constitutes, contraband of war. This sub-head is framed upon the basis that the term "contraband of war" will bear the same meaning as it has in maritime warfare.

(*i*) The ninth ground for capture is that the aircraft is engaged in a breach of blockade. "Blockade" is here used in the same sense in which it is employed in Chapter 1 of the Declaration of London, that is to say, an operation of war for the purpose of preventing by the use of warships ingress or egress of commerce to or from a defined portion of the enemy's coast. It has no reference to a blockade enforced without the use of warships, nor does it cover military investments of particular localities on land. These operations, which may be termed "aërial blockade," were the subject of special examination by the experts attached to the various delegations, who framed a special report on the subject for consideration by the Full Commission. The conditions contemplated in this sub-head are those of warships enforcing a blockade at sea with aircraft acting in coöperation with them. As the primary elements of the blockade will, therefore, be maritime, the recognized principles applicable to such blockade, as for instance, that it must be effective (Declaration of Paris, Article 4), and that it must be duly notified and its precise limits fixed, will also apply. This is intended to be shown by the use of the words "breach of blockade duly established and effectively maintained" in the text of the sub-head.

It is too early yet to indicate with precision the extent to which the coöperation of aircraft in the maintenance of blockade at sea may be possible; experience alone can show. Nevertheless, it is necessary to indicate the sense in which the Commission has used the word "effective." As pointed out in the Declaration of London, the effectiveness of a blockade is a question of fact. The word "effective" is intended to ensure that it must be maintained by a force sufficient really to prevent access to the enemy coast-line. The prize court may, for instance, have to consider what proportion of surface vessels can escape the watchfulness of the blockading squadrons without endangering the effectiveness of the blockade; this is a question which the prize court alone can determine. In the same way, this question may have to be considered where aircarft are coöperating in the maintenance of a blockade.

The invention of the aircraft cannot impose upon a belligerent who desires to institute a blockade the obligation to employ aircraft in coöperation with his naval forces. If he does not do so, the effectiveness of the blockade would not be affected by failure to stop aircraft passing through. It is only where the belligerent endeavors to render his blockade effective in the air-space above the sea as well as on the surface itself that captures of air-

craft will be made and that any question of the effectiveness of the blockade in the air could arise.

The facility with which an aircraft, desirous of entering the blockaded area, could evade the blockade by passing outside the geographical limits of the blockade has not escaped the attention of the Commission. This practical question may affect the extent to which belligerents will resort to blockade in future, but it does not affect the fact that where a blockade has been established and an aircraft attempts to pass through into the blockaded area within the limits of the blockade, it should be liable to capture.

The Netherlands Delegation proposed to suppress (*i*) on the grounds that air blockade could not be effectively maintained, basing its opinion on its interpretation of the experts' report on the subject.

The British, French, Italian and Japanese Delegations voted for its maintenance. The American Delegation voted for its maintenance *ad referendum*.

(*k*) The tenth ground for capture is that the private aircraft has been transferred from belligerent to neutral nationality with a view to escaping the disadvantages which enemy status confers upon aircraft. This subhead has been inserted in order that so far as possible the rules applicable to maritime warfare should apply to warfare in the air.

The sub-head as adopted does not embody the detailed provisions of the Declaration of London (Articles 55 and 56) because those articles constituted a compromise between two competing principles and have not stood the test of experience.

The sub-heads enumerated above comprise those which the Commission has considered sufficient to justify capture. Experience may show that other cases will arise in which capture may be necessary, as great development may yet occur in the science of aviation.

The article concludes with a proviso that the act which constitutes the ground of capture must have occurred in the course of the flight in which the neutral aircraft came into belligerent hands. This proviso would not, of course, apply to the case of transfer from belligerent to neutral nationality.

Account must also be taken of the special case provided for in Article 6 of the Rules for the Control of Radio in Time of War under which merchant vessels or aircraft transmitting intelligence may in certain circumstances be liable to capture for a period of one year from the commission of the act complained of.

Article 53

A neutral private aircraft is liable to capture if it—

(a) *Resists the legitimate exercise of belligerent rights.*

(b) *Violates a prohibition of which it has had notice issued by a belligerent commanding officer under Article 30.*

(c) *Is engaged in unneutral service.*

(d) *Is armed in time of war when outside the jurisdiction of its own country.*

(e) *Has no external marks or uses false marks.*

(f) *Has no papers or insufficient or irregular papers.*

(g) *Is manifestly out of the line between the point of departure and the point of destination indicated in its papers and after such enquiries as the belligerent may deem necessary, no good cause is shown for the deviation. The aircraft, together with its crew and passengers, if any, may be detained by the belligerent, pending such inquiries.*

(h) *Carries, or itself constitutes, contraband of war.*

(i) *Is engaged in breach of a blockade duly established and effectively maintained.*

(k) *Has been transferred from belligerent to neutral nationality at a date and in circumstances indicating an intention of evading the consequences to which an enemy aircraft, as such, is exposed.*

Provided that in each case (except (k)) *the ground for capture shall be an act carried out in the flight in which the neutral aircraft came into belligerent hands,* i.e., *since it left its point of departure and before it reached its point of destination.*

By custom and tradition practical uniformity has arisen as to the papers which a merchant vessel is expected to carry. There is no serious divergence between the legislation now in force in civilized countries. No practical inconvenience, therefore, arises in the application of the established rule of maritime war, that a vessel is liable to capture if it has no papers or if the papers are irregular. Similar uniformity would no doubt in time arise in connection with aircraft, particularly if the Air Navigation Convention of 1919 becomes universal. It has, however, been thought prudent to indicate in a special article the facts which the papers found on board an aircraft must indicate if its papers are to be held sufficient. Under Article 6 the papers to be borne by an aircraft are those prescribed by the laws of its own state. The forms, names and number of such papers are therefore a matter to be determined by each state except so far as it may already be bound by treaty stipulations. Article 54 prescribes the points that must be established by such papers, that is to say, it ensures that the papers shall give the belligerent information on the points which it is important for him to know. They must show the nationality of the aircraft, the names and nationality of the crew and the passengers, the points of departure and destination of the flight, particulars of the cargo, and must include the necessary logs. The legislation in force in each state must be sufficient to satisfy this rule if it desires that its aircraft shall escape trouble in time of war. It is not thought that this article will involve any inconvenience, as legislation which would not prescribe at least as much as the above on the subject of aircraft is unlikely to be enacted by any state.

Article 54

The papers of a private aircraft will be regarded as insufficient or irregular if they do not establish the nationality of the aircraft and indicate the names and

nationality of the crew and passengers, the points of departure and destination of the flight, together with particulars of the cargo and the conditions under which it is transported. The logs must also be included.

The practice has now become universal for belligerent states to institute a prize court in which proceedings will take place for adjudicating on all cases of capture of ships or goods effected in maritime war. It is in the interest of neutrals that this system has been developed. If aircraft are to be allowed to exercise the belligerent right of capture, it is only proper that the same protection should be accorded to neutrals as in the case of captures effected by warships. This view has readily obtained unanimous assent, and is embodied in Article 55.

Article 55

Capture of an aircraft or of goods on board an aircraft shall be made the subject of prize proceedings, in order that any neutral claim may be duly heard and determined.

The provisions of Articles 52 and 53 deal only with the grounds for capture. They do not prescribe the rule which is to be applied by the prize court. Reflection has led the Commission to the view that, save in certain exceptional cases where aircraft will have been captured for reasons peculiar to aërial warfare, the decisions of the prize courts in adjudicating on captures effected by aircraft, should proceed on the same principles as those which obtain in captures by warships. If the jurisdiction of the prize courts is to apply in aërial warfare as well as in maritime warfare, it is convenient that the rules applied should be the same in both cases. It would be impossible to frame an exact code, at the present stage, of the rules which prize courts apply, nor indeed would it be within the competence of this Commission to do so as far as concerns maritime warfare. It would certainly lead to divergence between rules applied in the case of aërial captures and those applied in the case of maritime captures. The simplest solution has therefore been found in the adoption of the principle that the prize court should apply the same rules in both cases.

The special cases which have to be provided for are those where an aircraft has no marks or has used false marks, or has been found armed in time of war outside the jurisdiction of its own country, and also in the case where a neutral aircraft has violated the rule that it must not infringe the directions of the belligerent commanding officer to keep away from the immediate vicinity of his military operations. In these cases it is agreed that the aircraft should be liable to condemnation.

Article 56

A private aircraft captured upon the ground that it has no external marks or is using false marks, or that it is armed in time of war outside the jurisdiction of its own country, is liable to condemnation.

A neutral private aircraft captured upon the ground that it has disregarded the direction of a belligerent commanding officer under Article 30 is liable to condemnation, unless it can justify its presence within the prohibited zone.

In all other cases, the prize court in adjudicating upon any case of capture of an aircraft or its cargo, or of postal correspondence on board an aircraft, shall apply the same rules as would be applied to a merchant vessel or its cargo or to postal correspondence on board a merchant vessel.

The destruction of neutral merchant vessels first came into prominence as a belligerent practice at the time of the Russo-Japanese War. It was not without difficulty that an agreement was reached between the Powers as to the extent to which the practice should be recognized in maritime war. In the case of enemy vessels, the practice has always been recognized as legitimate, subject to the overriding principle that the persons on board must be placed in safety and the papers of the vessel must be secured. This principle has been adapted to aërial warfare by Article 57, of which the text is as follows:

Article 57

Private aircraft which are found upon visit and search to be enemy aircraft may be destroyed if the belligerent commanding officer finds it necessary to do so, provided that all persons on board have first been placed in safety and all the papers of the aircraft have been preserved.

The articles dealing with the destruction of neutral aircraft are largely based upon the provisions of the Declaration of London, but the language used is of a more restrictive character, so as to reduce the possibilities of an abuse of the practice, as happened in the late war. Destruction is limited to cases where an aircraft is captured in circumstances which show that it would be liable to condemnation on the ground of unneutral service, or on the ground that it has no marks or bears false marks. Apart from these cases, destruction can only be justified by the existence of grave military emergencies which would not justify the officer in command in releasing the aircraft. In all cases, destruction must be justified by the circumstance that sending the aircraft in for adjudication would be impossible, or would imperil the safety of the belligerent aircraft or the success of the operations in which it is engaged.

Article 58

Private aircraft which are found upon visit and search to be neutral aircraft liable to condemnation upon the ground of unneutral service, or upon the ground that they have no external marks or are bearing false marks, may be destroyed, if sending them in for adjudication would be impossible or would imperil the safety of the belligerent aircraft or the success of the operations in which it is engaged. Apart from the cases mentioned above, a neutral private aircraft must not be

destroyed except in the gravest military emergency, which would not justify the officer in command in releasing it or sending it in for adjudication.

The safeguards designed to ensure full protection for neutral interests in the case of any such destruction are embodied in Article 59. The persons on board must be placed in safety. The papers must be secured in order that they may be available in the forthcoming prize court proceedings. The captor must then bring the case before the prize court and must establish, firstly, the need for destruction, and, secondly, when that is established, the validity of the capture. Failure to establish the first point will expose him to the risk of paying compensation to all the parties interested in the aircraft and its cargo. Failure to establish the second will place him in the same position in which he would be if the aircraft had not been destroyed, and he had been ordered to make restitution of the aircraft or cargo improperly captured.

Article 59

Before a neutral private aircraft is destroyed, all persons on board must be placed in safety, and all the papers of the aircraft must be preserved.

A captor who has destroyed a neutral private aircraft must bring the capture before the prize court, and must first establish that he was justified in destroying it under Article 58. If he fails to do this, parties interested in the aircraft or its cargo are entitled to compensation. If the capture is held to be invalid, though the act of destruction is held to have been justifiable, compensation must be paid to the parties interested in place of the restitution to which they would have been entitled.

The special case of the destruction of contraband on board an aircraft, apart from the destruction of the aircraft itself, is dealt with in Article 60, which proceeds on lines similar to Article 54 of the Declaration of London. After the contraband has been destroyed, the aircraft will be allowed to continue its flight. Similar provision is made for the protection of neutral interests as under the preceding articles.

The article as adopted is limited to absolute contraband, but three delegations considered that the word "absolute" should be deleted, and that the article should extend to all forms of contraband, as in Article 54 of the Declaration of London.

Article 60

Where a neutral private aircraft is captured on the ground that it is carrying contraband, the captor may demand the surrender of any absolute contraband on board, or may proceed to the destruction of such absolute contraband, if sending in the aircraft for adjudication is impossible or would imperil the safety of the belligerent aircraft or the success of the operations in which it is engaged. After entering in the log book of the aircraft the delivery or destruction of the goods, and

securing, in original or copy, the relevant papers of the aircraft, the captor must allow the neutral aircraft to continue its flight.

The provisions of the second paragraph of Article 59 will apply where absolute contraband on board a neutral private aircraft is handed over or destroyed.

CHAPTER VIII

DEFINITIONS

In some countries, the word "military" is not generally employed in a sense which includes "naval." To remove any ambiguity on this point a special article has been adopted.

Article 61

The term "military" throughout these Rules is to be read as referring to all branches of the forces, i.e., *the land forces, the naval forces and the air forces.*

Article 62 is intended to remove all risk of doubt as to whether aircraft personnel should, in matters not covered by these Rules or by conventions as to the application of which there can be no doubt, be governed by the Land Warfare Regulations or by the unwritten rules governing maritime war. The rules to be applied are those contained in the Land Warfare Regulations. Regard must be had to the last paragraphs of the Convention to which the Land Warfare Regulations are attached, that cases not provided for are not intended, for want of a written prohibition, to be left to the arbitrary judgment of military commanders. In all such cases the population and belligerents are to remain under the protection of the rule of the principles of the law of nations, as they result from the usages established between civilized nations, from the laws of humanity and the requirements of the public conscience.

The French Delegation expressed the opinion that the terms of Article 62 were hardly adequate to cover a subject so complex.

Article 62

Except so far as special rules are here laid down and except also so far as the provisions of Chapter VII of these Rules or international conventions indicate that maritime law and procedure are applicable, aircraft personnel engaged in hostilities come under the laws of war and neutrality applicable to land troops in virtue of the custom and practice of international law and of the various declarations and conventions to which the states concerned are parties.

JURISDICTION

The British draft code contained an article (No. 9) stipulating that for the purpose of the proposed rules, territory over which a Power exercises a protectorate or a mandate, and also protected states, should be assimilated to the national territory of that Power. The Japanese Delegation drew atten-

tion to the necessity of providing also for the case of leased territories if any such article were adopted. Throughout the articles adopted the word "jurisdiction" is used. The Commission has considered the question whether it is necessary to add a definition of the word "jurisdiction," and has come to the conclusion that it would be better not to do so. The area within which each state is responsible is well understood; no difficulty of this sort arises in practice; and no inconvenience has been caused by the absence of any such definition from Convention No. XIII, of 1907, in which the word "jurisdiction" is used in a manner very similar to that in which it is used in the present rules.

MARGINAL TERRITORIAL AIR-BELT

An interesting proposal was made by the Italian Delegation that along the coast of every state the national jurisdiction in the air-space should for aërial purposes extend to 10 miles. The proposal did not comprise any extension of territorial waters generally, a matter which would have been outside the reference to the Commission under the terms of the Washington Resolution.

Detailed consideration of the proposal led the majority of the delegations to think that the suggestion is not practicable.

It seems inevitable that great confusion would follow from any rule which laid down a different width for the territorial air-space from that recognized for territorial waters, more particularly in the case of neutral countries for whose benefit and protection the proposal is put forward. As an example it is only necessary to take Article 42, which obliges a neutral state to endeavor to compel a belligerent military aircraft entering its jurisdiction to alight. If the aircraft entered the jurisdiction from over the high seas, it would do so at 10 miles from the coast, and if in compliance with neutral orders it forthwith alighted on the water, it would then be outside the neutral jurisdiction, and the neutral state could not intern the aircraft.

On principle it would seem that the jurisdiction in the air-space should be appurtenant to the territorial jurisdiction enjoyed beneath it, and that in the absence of a territorial jurisdiction beneath, there is no sound basis for jurisdiction in the air.

Furthermore, it is felt that the obligation to enforce respect for neutral rights throughout a 10-mile belt would impose an increased burden on neutral Powers without adequate compensating advantages. Even with this wider belt it would still be easy for airmen fighting in the air to lose their bearings in the heat of the combat, and to encroach inadvertently on neutral jurisdiction. Lastly, the greater the distance from the coast, the more difficult it is for the position of an aircraft to be determined with precision, and the more frequent, therefore, will disputes become between belligerent and neutral states as to violation by the former's aircraft of the latter's jurisdiction.

With a view to meeting these criticisms, the Italian Delegation recast the

proposal in a different shape, and suggested that in time of war a state, whether neutral or belligerent, should be authorized, if it so desired, and if it notified other Powers accordingly at the beginning of the war, to extend its jurisdiction over the marginal air-belt to a distance of 10 miles at any given places along its coast. In this form the proposal would have placed no burden upon neutrals, because they would not have made use of it unless they considered it to their advantage. The anomalies of the divergent widths of the marginal air-belt and the marginal belt of sea would have remained.

After due consideration of the proposal, the majority of the delegations felt unable to accept the proposal even in its amended form.

The Italian Delegation made the following statement:

1. It does not think it desirable to resume in plenary commission the discussion of a question which has on several occasions been considered in all the necessary detail during the meetings of the sub-committee.

2. Nevertheless, although the majority of the delegations have already put forward views opposed to its proposal, it continues to believe in the importance of that proposal and in the necessity for its adoption and insertion in an international convention.

3. From the point of view both of belligerent and of neutral states, there are reasons of the highest juridical and technical importance which make it indispensable to allow each state the power of including in its jurisdiction the atmospheric space to a distance of 10 miles from its coast.

4. The difficulties resulting from the difference between the width of the marginal air-belt and the width of national territorial waters would not seem to be so serious as to render the Italian proposal unacceptable in practice.

5. In any case, there is no juridical obstacle to the fixing of the same width of space for the marginal air-belt as for territorial waters, the Italian Delegation being of opinion that international law, as generally recognized, contains no rule prohibiting a state from extending its territorial waters to a distance of 10 sea-miles from its coasts.

6. In conclusion, it urges that a question of such paramount importance should be reopened and placed upon the agenda of a conference in the near future.

COMPENSATION AND DISPUTES

The Netherlands Delegation submitted the following proposal:

The belligerent party who, intentionally, or through negligence, violates the provisions of the present Rules is liable to pay compensation in case damage is caused as a result of such violation. Such party will be responsible for all acts committed by members of his armed forces.

If any dispute should arise on the subject which is not otherwise settled, such dispute shall be submitted for settlement to the Permanent Court of Arbitration, in conformity with Convention I of 1907, or to the Permanent Court of International Justice, in respect of such states as have accepted as compulsory *ipso facto* its jurisdiction.

The Commission approving the principle of indemnity, decided to incorporate the proposal in its general report, so as to bring it to the attention of the governments.

VIOLATION OF THE RULES

No provision is made in the articles adopted as to the penalties to which persons violating the Rules are to be subject. Some of the provisions in the drafts laid before the Commission stated that persons violating the article in question were to be punishable with death, or were to be treated as war criminals. No such stipulation figures in the Land Warfare Regulations and it has seemed better to omit it. Its absence will not in any way prejudice the imposition of punishment on persons who are guilty of breaches of the laws of aërial warfare.

United States of America:
JOHN BASSETT MOORE
ALBERT HENRY WASHBURN
British Empire:
RENNELL RODD
CECIL J. B. HURST
France:
A. DE LAPRADELLE
BASDEVANT
Italy:
V. ROLANDI RICCI
Japan:
K. MATSUI
M. MATSUDA
Netherlands:
A. STRUYCKEN
VAN EYSINGA

The Secretary-General:
J. P. A. FRANÇOIS
The Hague, February 19, 1923.

MEXICO-UNITED STATES

PROTOCOL RELATIVE TO CLAIMS PRESENTED TO THE GENERAL CLAIMS COMMISSION, ESTABLISHED BY THE CONVENTION OF SEPTEMBER 8, 1923 [1]

Signed at Mexico City, April 24, 1934; ratifications exchanged, Feb. 1, 1935

Josephus Daniels, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Government of Mexico, and José Manuel Puig Casauranc, Secretary for Foreign Affairs of the United Mexican States, duly authorized, have agreed on behalf of their two governments to conclude the following protocol:

Whereas, it is the desire of the two governments to settle and liquidate as promptly as possible those claims of each government against the other which are comprehended by, and which have been filed in pursuance of, the General Claims Convention between the two governments, concluded on September 8, 1923; [2]

Whereas, it is not considered expedient to proceed, at the present time, to the formal arbitration of the said claims in the manner provided in that convention;

Whereas, it is considered to be conducive to the best interests of the two governments, to preserve the *status quo* of the General Claims Convention above mentioned and the convention extending the duration thereof, which latter was concluded on June 18, 1932,[3] as well as the agreement relating to agrarian claims under Article I of the additional protocol of June 18, 1932;

Whereas, it is advisable to endeavor to effect a more expeditious and more economical disposition of the claims, either by means of an *en bloc* settlement or a more simplified method of adjudication, and

Whereas, in the present state of development of the numerous claims the available information is not such as to permit the two governments to appraise their true value with sufficient accuracy to permit of the successful negotiation of an *en bloc* settlement thereof at the present time;

Therefore, it is agreed that:

First—The two governments will proceed to an informal discussion of the agrarian claims now pending before the General Claims Commission, with a view to making an adjustment thereof that shall be consistent with the rights and equities of the claimants and the rights and obligations of the Mexican Government, as provided by the General Claims Protocol of June 18, 1932. Pending such discussion no agrarian claims will be presented to the Commissioners referred to in clause third nor, in turn, to the umpire referred to in clause fifth of this protocol; but memorials of cases not yet memorialized

[1] U. S. Executive Agreement Series, No. 57. Revised print superseding Publication No. 601.

[2] Printed in this JOURNAL, Supp., Vol. 18 (1924), p. 147.

[3] *Ibid.*, Vol. 30 (1936), p. 105.

may be filed in order to regularize the awards made upon the agreed adjustments.

Consequently, the subsequent provisions of this protocol shall apply to agrarian claims only insofar as they do not conflict with the status thereof, as exclusively fixed by the terms of the agreed Article I of the additional protocol to the extension of the General Claims Convention, signed June 18, 1932.

Second—The two governments shall proceed, in accordance with the provisions of clause sixth below, promptly to complete the written pleadings and briefs in the remaining unpleaded and incompletely pleaded cases.

Third—Each government shall promptly designate, from among its own nationals, a Commissioner, who shall be an outstanding jurist and whose function it shall be to appraise, on their merits, as rapidly as possible, the claims of both governments which have already been fully pleaded and briefed and those in which the pleadings and briefs shall be completed in accordance herewith.

Fourth—Six months before the termination of the period herein agreed upon for the completion of the pleadings and briefs referred to in clause sixth or at an earlier time should they so agree, the said Commissioners shall meet, at a place to be agreed upon by them, for the purpose of reconciling their appraisals. They shall, as soon as possible, and not later than six months from the date of the completion of the pleadings and briefs, submit to the two governments a joint report of the results of their conferences, indicating those cases in which agreement has been reached by them with respect to the merits and the amount of liability, if any, in the individual cases and also those cases in which they shall have been unable to agree with respect to the merits or the amount of liability, or both.

Fifth—The two governments shall, upon the basis of such joint report, and with the least possible delay, conclude a convention for the final disposition of the claims, which convention shall take one or the other of the two following forms, namely, first, an agreement for an *en bloc* settlement of the claims wherein there shall be stipulated the net amount to be paid by either government and the terms upon which payment shall be made; or, second, an agreement for the disposition of the claims upon their individual merits. In this latter event, the two above-mentioned Commissioners shall be required to record their agreements with respect to individual claims and the bases upon which their conclusions shall have been reached, in the respective cases.

The report shall be accepted, by the convention to be concluded by the two governments, as final and conclusive dispositions of those cases. With respect to those cases in which the Commissioners shall not have been able to reach agreements, the two governments shall, by the said convention, agree that the pleadings and briefs in such cases, together with the written views of the two Commissioners concerning the merits of the respective claims, be referred to an Umpire, whose written decisions shall also be accepted by both governments as final and binding. All matters relating to the designation of

an Umpire, time within which his decisions should be rendered and general provisions relating to his work shall be fixed in a convention to be negotiated under provisions of this clause.

Sixth—The procedure to be followed in the development of the pleadings and briefs, which procedure shall be scrupulously observed by the Agents of the two governments, shall be the following:

(*a*) The time allowed for the completion of the pleadings and briefs shall be two years counting from a date hereafter to be agreed upon by the two governments by an exchange of notes, which shall not be later than November 1, 1934.

(*b*) The pleadings and briefs of each government shall be filed at the embassy of the other government.

(*c*) The pleadings and briefs to be filed shall be limited in number to four, namely, memorial, answer, brief and reply brief. Only three copies of each need be presented to the other Agent, but four additional copies shall be retained by the filing Agency for possible use in future adjudication. Each copy of memorial, answer and brief shall be accompanied by a copy of all evidence filed with the original thereof. The pleadings and briefs, which may be in either English or Spanish at the option of the filing government, shall be signed by the respective Agents or properly designated substitutes.

(*d*) With the memorial the claimant government shall file all the evidence on which it intends to rely. With the answer the respondent government shall file all the evidence upon which it intends to rely. No further evidence shall be filed by either side except such evidence, with the brief, as rebuts evidence filed with the answer. Such evidence shall be strictly limited to evidence in rebuttal and there shall be explained at the beginning of the brief the alleged justification for the filing thereof. If the other side desires to object to such filing, its views may be set forth in the beginning of the reply brief, and the Commissioners, or the Umpire, as the case may require, shall decide the point, and if it is decided that the evidence is not in rebuttal to evidence filed with the answer, the additional evidence shall be entirely disregarded in considering the merits of the claim.

The Commissioners may at any time order the production of further evidence.

(*e*) In view of the desire to reduce the number of pleadings and briefs to a minimum in the interest of economy of time and expense, it shall be the obligation of both Agents fully and clearly to state in their memorials the contention of the claimant government with respect to both the factual bases of the claims in question and the legal principles upon which the claims are predicated and, in the answer, the contentions of the respondent government with regard to the facts and legal principles upon which the defense of the case rests. In cases in which answers already filed do not sufficiently meet this provision so as to afford the claimant government an adequate basis for preparing its legal brief with full general knowledge of the factual and legal

defenses of the respondent government, it shall have the right to file a counter brief within thirty days following the date of filing the reply brief.

(*f*) For the purposes of the above pleadings and briefs, as well as the appraisals and decisions of the two Commissioners and the decisions of the Umpire, above mentioned, the provisions of the General Claims Convention of September 8, 1923, shall be considered as fully effective and binding upon the two governments, except insofar as concerns the matter of procedure, which shall be that provided for herein.

(*g*) Whenever practicable, cases of a particular class shall be grouped for memorializing and/or for briefing.

(*h*) In order that the two Agents may organize their work in the most advantageous manner possible and in order that the two-year period allowed for pleadings and briefs may be utilized, in a manner which shall be most equitable to both sides, each Agent shall, within thirty days from the beginning of the two-year pleading period, submit to the other Agent a tentative statement showing the total number of memorials and briefs such Agent intends to file. Six months after the beginning of the two-year pleading period, the two Agents shall respectively submit in the same manner statements setting out definitely by name and docket number the claims in which it is proposed to complete the pleadings and briefs, indicating those in which they intend to combine cases in the manner indicated in paragraph (*g*) above. The number of pleadings and briefs so indicated shall not, except by later agreement between the two governments, be exceeded by more than ten per cent.

(*i*) In order to enable the Agencies to distribute their work equally over the two-year pleading period, each Agency shall be under the obligation to file its memorials at approximately equal intervals during the first seventeen months of the two-year period, thus allowing the remaining seven months of the period for the completion of the pleadings and briefs in the last case memorialized. The same obligation shall attach with respect to the filing of the pleadings and briefs referred to in paragraph (*k*) below.

(*j*) The time to be allowed for filing answers shall be seventy days from the date of filing memorials. The time to be allowed for filing briefs shall be seventy days from the date of filing the answers. The time to be allowed for filing reply briefs shall be seventy days from the date of filing the briefs.

(*k*) In those cases in which some pleadings or briefs were filed with the General Claims Commission before the date of signature hereof, the Agency which has the right to file the next pleading or brief shall be allowed to determine when that document shall be filed, taking into consideration the necessity of complying with the provisions of paragraph (*i*) above.

(*l*) In counting the seventy-day periods mentioned in paragraph (*j*) above, no deductions shall be made for either Sundays or holidays. The date of filing the above described pleadings and briefs shall be considered to be the date upon which they shall be delivered at the embassy of the other government. If the due date shall fall on Sunday or a legal holiday, the pleading

or brief shall be filed upon the next succeeding business day. The two governments shall, for this purpose, instruct their respective embassies to receive and give receipts for such pleadings and briefs any weekday between the hours of 10 and 16 (4 p.m.) except on the following legal holidays of both countries:

Of the United States	*Of Mexico*
January 1	January 1
February 22	February 5
May 30	May 1
July 4	May 5
First Monday in September	September 14
Last Thursday in November	September 15
December 25	September 16
	October 12
	November 20
	December 25
	December 31

(*m*) In view of the herein prescribed limitations upon the time allowed for the completion of the work of the Agencies and the Commissioners, it is recognized that the success of this simplified plan of procedure depends fundamentally upon the prompt and regular filing of the pleadings and briefs in accordance with the provisions of this protocol. It is agreed, therefore, that any pleading or brief which shall be filed more than thirty days after the due date for the filing thereof, shall be disregarded by the Commissioners and the Umpire, and that the respective case shall be considered by them upon the pleadings and briefs preceding the tardy pleadings and briefs, unless, by agreement of the two governments, the continued pleading of the respective case shall be resumed.

(*n*) It shall not be necessary to present original evidence but all documents hereafter submitted as evidence shall be certified as true and complete copies of the original if they be such. In the event that any particular document filed is not a true and complete copy of the original, that fact shall be so stated in the certificate.

(*o*) The complete original of any document filed, either in whole or in part, shall be retained in the Agency filing the document and shall be made available for inspection by any authorized representative of the Agent of the other side.

(*p*) Where the original of any document or other proof is filed at any government office on either side, and cannot be conveniently withdrawn, and no copy of such document is in the possession of the Agent of the government desiring to present the same to the Commissioners in support of the allegations set out in his pleadings or briefs, he shall notify the Agent of the other government in writing of his desire to inspect such document. Should such inspection be refused, then the action taken in response to the request to inspect, together with such reasons as may be assigned for the action taken, shall be

reported to the Commissioners and, in turn, to the Umpire mentioned in clause fifth of this protocol, so that due notice thereof may be taken.

Done in duplicate in Mexico, D. F. in the English and Spanish languages this twenty fourth day of the month of April one thousand nine hundred and thirty four.

JOSEPHUS DANIELS [SEAL]
PUIG [SEAL]

EXCHANGE OF NOTES

The Mexican Chargé d'Affaires ad interim at Washington (Campos Ortiz) to the Secretary of State (Hull)

[Translation]

EMBASSY OF MEXICO,
Washington, D. C., February 1, 1935.

MR. SECRETARY:

In conformity with the provision of paragraph (*a*) of clause six of the protocol relating to claims presented before the General Claims Commission, signed on April 24, 1934, which states: "The time allowed for the completion of the pleadings and briefs shall be 2 years counting from a date hereafter to be agreed upon by the two governments by an exchange of notes, which shall not be later than November 1, 1934" and taking into account that the extension of time granted by the Mexican Government to that of the United States in Note No. 6509 of September 26, 1934, expires on the 1st of February, both governments, for the purposes of the clause above mentioned, consider as initiated as of this date and by means of the exchange of these identic notes the period of 2 years to which the said provision of the protocol refers.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

P. CAMPOS ORTIZ
Chargé d'Affaires ad interim.

His Excellency
Mr. CORDELL HULL,
Secretary of State,
etc., etc., etc.

The Secretary of State (Hull) to the Mexican Chargé d'Affaires ad interim at Washington (Campos Ortiz)

DEPARTMENT OF STATE,
Washington, February 1, 1935.

SIR:

In conformity with the provision of paragraph (*a*) of clause sixth of the protocol relating to claims presented before the General Claims Commission,

signed on April 24, 1934, which states: "The time allowed for the completion of the pleadings and briefs shall be two years counting from a date hereafter to be agreed upon by the two Governments by an exchange of notes, which shall not be later than November 1, 1934," and taking into account that the extension of time granted by the Mexican Government to the Government of the United States in Note No. 6509 of September 26, 1934, expires on the first of February, both governments, for the purposes of the clause above mentioned, consider as initiated as of this date and by means of the exchange of these identic notes the period of two years to which the said provision of the protocol refers.

Accept, Sir, the renewed assurances of my high consideration.

CORDELL HULL

Señor Dr. DON PABLO CAMPOS-ORTIZ
Chargé d'Affaires ad interim of Mexico.

CANADA-UNITED STATES

CONVENTION FOR PROTECTION OF SOCKEYE SALMON FISHERIES [1]

AND PROTOCOL OF EXCHANGE OF RATIFICATIONS

Signed at Washington, May 26, 1930; ratifications exchanged July 28, 1937

The President of the United States of America and His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada, recognizing that the protection, preservation and extension of the sockeye salmon fisheries in the Fraser River system are of common concern to the United States of America and the Dominion of Canada; that the supply of this fish in recent years has been greatly depleted and that it is of importance in the mutual interest of both countries that this source of wealth should be restored and maintained, have resolved to conclude a convention and to that end have named as their respective plenipotentiaries:

The President of the United States of America: Mr. Henry L. Stimson, Secretary of State of the United States of America; and

His Majesty, for the Dominion of Canada: The Honorable Vincent Massey, a member of His Majesty's Privy Council for Canada and His Envoy Extraordinary and Minister Plenipotentiary for Canada at Washington;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

The provisions of this convention and the orders and regulations issued under the authority thereof shall apply, in the manner and to the extent hereinafter provided in this convention, to the following waters:

1. The territorial waters and the high seas westward from the western coast of the United States of America and the Dominion of Canada and from a direct line drawn from Bonilla Point, Vancouver Island, to the lighthouse on Tatoosh Island, Washington,—which line marks the entrance to Juan de Fuca Strait,—and embraced between 48 and 49 degrees north latitude, excepting therefrom, however, all the waters of Barklay Sound, eastward of a straight line drawn from Amphitrite Point to Cape Beale and all the waters of Nitinat Lake and the entrance thereto.

2. The waters included within the following boundaries:

Beginning at Bonilla Point, Vancouver Island, thence along the aforesaid direct line drawn from Bonilla Point to Tatoosh Lighthouse, Washington, described in paragraph numbered 1 of this article, thence to the nearest point of Cape Flattery, thence following the southerly shore of Juan de Fuca Strait

[1] United States Treaty Series, No. 918.

to Point Wilson, on Quimper Peninsula, thence in a straight line to Point Partridge on Whidbey Island, thence following the western shore of the said Whidbey Island, to the entrance to Deception Pass, thence across said entrance to the southern side of Reservation Bay, on Fidalgo Island, thence following the western and northern shore line of the said Fidalgo Island to Swinomish Slough, crossing the said Swinomish Slough, in line with the track of the Great Northern Railway, thence northerly following the shore line of the mainland to Atkinson Point at the northerly entrance to Burrard Inlet, British Columbia, thence in a straight line to the southern end of Bowen Island, thence westerly following the southern shore of Bowen Island to Cape Roger Curtis, thence in a straight line to Gower Point, thence westerly following the shore line to Welcome Point on Seechelt Peninsula, thence in a straight line to Point Young on Lasqueti Island, thence in a straight line to Dorcas Point on Vancouver Island, thence following the eastern and southern shores of the said Vancouver Island to the starting point at Bonilla Point, as shown on the United States Coast and Geodetic Survey Chart Number 6300, as corrected to March 14, 1930, and on the British Admiralty Chart Number 579, copies of which are annexed to this convention and made a part thereof.[2]

3. The Fraser River and the streams and lakes tributary thereto.

The high contracting parties engage to have prepared as soon as practicable charts of the waters described in this article, with the above described boundaries thereof and the international boundary indicated thereon. Such charts, when approved by the appropriate authorities of the Governments of the United States of America and the Dominion of Canada, shall be considered to have been substituted for the charts annexed to this convention and shall be authentic for the purposes of the convention.

The high contracting parties further agree to establish within the territory of the United States of America and the territory of the Dominion of Canada such buoys and marks for the purposes of this convention as may be recommended by the Commission hereinafter authorized to be established, and to refer such recommendations as the Commission may make as relate to the establishment of buoys or marks at points on the international boundary to the International Boundary Commission, United States-Alaska and Canada, for action pursuant to the provisions of the treaty between the United States of America and His Majesty, in respect of Canada, respecting the boundary between the United States of America and the Dominion of Canada, signed February 24, 1925.

ARTICLE II

The high contracting parties agree to establish and maintain a Commission to be known as the International Pacific Salmon Fisheries Commission, hereinafter called the Commission, consisting of six members, three on the part of the United States of America and three on the part of the Dominion of Canada.

[2] Charts omitted from this SUPPLEMENT.

The Commissioners on the part of the United States of America shall be appointed by the President of the United States of America. The Commissioners on the part of the Dominion of Canada shall be appointed by His Majesty on the recommendation of the Governor General in Council.

The Commissioners appointed by each of the high contracting parties shall hold office during the pleasure of the high contracting party by which they were appointed.

The Commission shall continue in existence so long as this convention shall continue in force, and each high contracting party shall have power to fill and shall fill from time to time vacancies which may occur in its representation on the Commission in the same manner as the original appointments are made. Each high contracting party shall pay the salaries and expenses of its own Commissioners, and joint expenses incurred by the Commission shall be paid by the two high contracting parties in equal moieties.

Article III

The Commission shall make a thorough investigation into the natural history of the Fraser River sockeye salmon, into hatchery methods, spawning ground conditions and other related matters. It shall conduct the sockeye salmon fish cultural operations in the waters described in paragraphs numbered 2 and 3 of Article I of this convention, and to that end it shall have power to improve spawning grounds, construct, and maintain hatcheries, rearing ponds and other such facilities as it may determine to be necessary for the propagation of sockeye salmon in any of the waters covered by this convention, and to stock any such waters with sockeye salmon by such methods as it may determine to be most advisable. The Commission shall also have authority to recommend to the Governments of the high contracting parties removing or otherwise overcoming obstructions to the ascent of sockeye salmon, that may now exist or may from time to time occur, in any of the waters covered by this convention, where investigation may show such removal of or other action to overcome obstructions to be desirable. The Commission shall make an annual report to the two Governments as to the investigations which it has made and other action which it has taken in execution of the provisions of this article, or of other articles of this convention.

The cost of all work done pursuant to the provisions of this article, or of other articles of this convention, including removing or otherwise overcoming obstructions that may be approved, shall be borne equally by the two Governments, and the said Governments agree to appropriate annually such money as each may deem desirable for such work in the light of the reports of the Commission.

Article IV

The Commission is hereby empowered to limit or prohibit taking sockeye salmon in respect of all or any of the waters described in Article I of this

convention, provided that when any order is adopted by the Commission limiting or prohibiting taking sockeye salmon in any of the territorial waters or on the high seas described in paragraph numbered 1 of Article I, such order shall extend to all such territorial waters and high seas, and, similarly, when in any of the waters of the United States of America embraced in paragraph numbered 2 of Article I, such order shall extend to all such waters of the United States of America, and when in any of the Canadian waters embraced in paragraphs numbered 2 and 3 of Article I, such order shall extend to all such Canadian waters, and provided further, that no order limiting or prohibiting taking sockeye salmon adopted by the Commission shall be construed to suspend or otherwise affect the requirements of the laws of the State of Washington or of the Dominion of Canada as to the procuring of a license to fish in the waters on their respective sides of the boundary, or in their respective territorial waters embraced in paragraph numbered 1 of Article I of this convention, and provided further that any order adopted by the Commission limiting or prohibiting taking sockeye salmon on the high seas embraced in paragraph numbered 1 of Article I of this convention shall apply only to nationals and inhabitants and vessels and boats of the United States of America and the Dominion of Canada.

Any order adopted by the Commission limiting or prohibiting taking sockeye salmon in the waters covered by this convention, or any part thereof, shall remain in full force and effect unless and until the same be modified or set aside by the Commission. Taking sockeye salmon in said waters in violation of an order of the Commission shall be prohibited.

ARTICLE V

In order to secure a proper escapement of sockeye salmon during the spring or chinook salmon fishing season, the Commission may prescribe the size of the meshes in all fishing gear and appliances that may be operated during said season in the waters of the United States of America and/or the Canadian waters described in Article I of this convention. At all seasons of the year the Commission may prescribe the size of the meshes in all salmon fishing gear and appliances that may be operated on the high seas embraced in paragraph numbered 1 of Article I of this convention, provided, however, that in so far as concerns the high seas, requirements prescribed by the Commission under the authority of this paragraph shall apply only to nationals and inhabitants and vessels and boats of the United States of America and the Dominion of Canada.

Whenever, at any other time than the spring or chinook salmon fishing season, the taking of sockeye salmon in waters of the United States of America or in Canadian waters is not prohibited under an order adopted by the Commission, any fishing gear or appliance authorized by the State of Washington may be used in waters of the United States of America by any person thereunto authorized by the State of Washington, and any fishing

gear or appliance authorized by the laws of the Dominion of Canada may be used in Canadian waters by any person thereunto duly authorized. Whenever the taking of sockeye salmon on the high seas embraced in paragraph numbered 1 of Article I of this convention is not prohibited, under an order adopted by the Commission, to the nationals or inhabitants or vessels or boats of the United States of America or the Dominion of Canada, only such salmon fishing gear and appliances as may have been approved by the Commission may be used on such high seas by said nationals, inhabitants, vessels or boats.

ARTICLE VI

No action taken by the Commission under the authority of this convention shall be effective unless it is affirmatively voted for by at least two of the Commissioners of each high contracting party.

ARTICLE VII

Inasmuch as the purpose of this convention is to establish for the high contracting parties, by their joint effort and expense, a fishery that is now largely nonexistent, it is agreed by the high contracting parties that they should share equally in the fishery. The Commission shall, consequently, regulate the fishery with a view to allowing, as nearly as may be practicable, an equal portion of the fish that may be caught each year to be taken by the fishermen of each high contracting party.

ARTICLE VIII

Each high contracting party shall be responsible for the enforcement of the orders and regulations adopted by the Commission under the authority of this convention, in the portion of its waters covered by the convention.

Except as hereinafter provided in Article IX of this convention, each high contracting party shall be responsible, in respect of its own nationals and inhabitants and vessels and boats, for the enforcement of the orders and regulations adopted by the Commission, under the authority of this convention, on the high seas embraced in paragraph numbered 1 of Article I of the convention.

Each high contracting party shall acquire and place at the disposition of the Commission any land within its territory required for the construction and maintenance of hatcheries, rearing ponds, and other such facilities as set forth in Article III.

ARTICLE IX

Every national or inhabitant, vessel or boat of the United States of America or of the Dominion of Canada, that engages in sockeye salmon fishing on the high seas embraced in paragraph numbered 1 of Article I of this convention, in violation of an order or regulation adopted by the Commission, under the authority of this convention, may be seized and detained by the duly author-

ized officers of either high contracting party, and when so seized and detained shall be delivered by the said officers, as soon as practicable, to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be agreed upon with the competent authorities. The authorities of the country to which a person vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of any order or regulation, adopted by the Commission in respect of fishing for sockeye salmon on the high seas embraced in paragraph numbered 1 of Article I of this convention, or of any law or regulation which either high contracting party may have made to carry such order or regulation of the Commission into effect, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other high contracting party shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

ARTICLE X

The high contracting parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this convention and the orders and regulations adopted by the Commission under the authority thereof, with appropriate penalties for violations.

ARTICLE XI

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty in accordance with constitutional practice, and it shall become effective upon the date of the exchange of ratifications which shall take place at Washington as soon as possible and shall continue in force for a period of sixteen years, and thereafter until one year from the day on which either of the high contracting parties shall give notice to the other of its desire to terminate it.

In witness whereof, the respective plenipotentiaries have signed the present convention, and have affixed their seals thereto.

Done in duplicate at Washington on the twenty-sixth day of May, one thousand nine hundred and thirty.

[SEAL] HENRY L STIMSON
[SEAL] VINCENT MASSEY

PROTOCOL OF EXCHANGE

The undersigned the Secretary of State of the United States of America and the Canadian Minister at Washington met this day for the purpose of exchanging ratifications of the convention between the United States of America and Canada for the protection, preservation and extension of the sockeye salmon fisheries of the Fraser River System, signed at Washington on May 26, 1930.

The Secretary of State of the United States of America stated that the convention is ratified on the part of the United States of America subject to the three understandings contained in the resolution of the Senate of the United States of America advising and consenting to ratification, a copy of which resolution was communicated to the Secretary of State for External Affairs of Canada by the Minister of the United States of America at Ottawa in his note of July 7, 1936. These three understandings are as follows:

(1) That the International Pacific Salmon Fisheries Commission shall have no power to authorize any type of fishing gear contrary to the laws of the State of Washington or the Dominion of Canada;

(2) That the Commission shall not promulgate or enforce regulations until the scientific investigations provided for in the convention have been made, covering two cycles of Sockeye Salmon runs, or eight years; and

(3) That the Commission shall set up an Advisory Committee composed of five persons from each country who shall be representatives of the various branches of the industry (purse seine, gill net, troll, sport fishing, and one other), which Advisory Committee shall be invited to all non-executive meetings of the Commission and shall be given full opportunity to examine and to be heard on all proposed orders, regulations or recommendations.

The Canadian Minister stated that he was authorized by his Government to state that it accepted the foregoing understandings.

The exchange then took place in the usual manner.

IN WITNESS WHEREOF they have signed the present protocol and have affixed their seals hereto.

Done at Washington this twenty-eighth day of July, 1937.

CORDELL HULL [SEAL]
Secretary of State
of the United States of America

HERBERT M MARLER. [SEAL]
Canadian Minister

CANADA-UNITED STATES

CONVENTION REVISING THE CONVENTION OF MAY 9, 1930,[1] FOR THE PRESERVATION OF HALIBUT FISHERY OF NORTHERN PACIFIC OCEAN AND BERING SEA[2]

Signed at Ottawa, January 29, 1937; ratifications exchanged July 28, 1937

The President of the United States of America,

And His Majesty the King of Great Britain, Ireland, and the British dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada,

Desiring to provide more effectively for the preservation of the halibut

[1] Printed in this JOURNAL, Supplement, Vol. 25 (1931), p. 188.

[2] United States Treaty Series, No. 917.

fishery of the Northern Pacific Ocean and Bering Sea, have resolved to conclude a convention revising the convention for the preservation of that fishery signed on their behalf at Ottawa on May 9, 1930, and have named as their plenipotentiaries for that purpose,

The President of the United States of America:

Norman Armour, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Canada; and

His Majesty, for the Dominion of Canada:

The Right Honourable William Lyon Mackenzie King, Prime Minister and Secretary of State for External Affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

Article I

The nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, respectively, are hereby prohibited from fishing for halibut (Hippoglossus) both in the territorial waters and in the high seas off the western coasts of the United States of America, including the southern as well as the western coasts of Alaska, and of Canada, from the first day of November next after the date of the exchange of ratifications of this convention to the fifteenth day of the following February, both days inclusive, and within the same period yearly thereafter.

The International Fisheries Commission provided for by Article III is hereby empowered, subject to the approval of the President of the United States of America and of the Governor General of Canada, to suspend or change the closed season provided for by this article, as to part or all of the convention waters, when it finds after investigation such suspensions or changes are necessary, and to permit, limit, regulate and prohibit in any area or at any time when fishing for halibut is prohibited, the taking, retention and landing of halibut caught incidentally to fishing for other species of fish, and the possession during such fishing of halibut of any origin.

It is understood that nothing contained in this convention shall prohibit the nationals or inhabitants or the fishing vessels or boats of the United States of America or of Canada, from fishing in the waters hereinbefore specified for other species of fish during the season when fishing for halibut in such waters is prohibited by this convention or by any regulations adopted in pursuance of its provisions.

It is further understood that nothing contained in this convention shall prohibit the International Fisheries Commission from conducting fishing operations for investigation purposes at any time.

Article II

Every national or inhabitant, vessel or boat of the United States of America or of Canada engaged in halibut fishing on the high seas in violation of this

convention or of any regulation adopted under the provisions thereof may be seized by the duly authorized officers of either high contracting party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be agreed upon. The authorities of the nation to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of this convention, or any regulations which may be adopted in pursuance of its provisions, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other high contracting party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

Each high contracting party shall be responsible for the proper observance of this convention, or of any regulation adopted under the provisions thereof, in the portion of its waters covered thereby.

ARTICLE III

The high contracting parties agree to continue under this convention the Commission as at present constituted and known as the International Fisheries Commission, established by the Convention for the Preservation of the Halibut Fishery, signed at Washington, March 2, 1923,[3] and continued under the convention signed at Ottawa, May 9, 1930, consisting of four members, two appointed by each party, which commission shall make such investigations as are necessary into the life history of the halibut in the convention waters and shall publish a report of its activities from time to time. Each of the high contracting parties shall have power to fill, and shall fill from time to time, vacancies which may occur in its representation on the Commission. Each of the high contracting parties shall pay the salaries and expenses of its own members, and joint expenses incurred by the Commission shall be paid by the two high contracting parties in equal moieties.

The high contracting parties agree that for the purposes of protecting and conserving the halibut fishery of the Northern Pacific Ocean and Bering Sea, the International Fisheries Commission, with the approval of the President of the United States of America and of the Governor General of Canada, may, in respect of the nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, from time to time,

(*a*) divide the convention waters into areas;

(*b*) limit the catch of halibut to be taken from each area within the season during which fishing for halibut is allowed;

(*c*) prohibit departure of vessels from any port or place, or from any receiving vessel or station, to any area for halibut fishing, after any date when in the judgment of the International Fisheries Commission the vessels which

[3] Printed in this JOURNAL, Supplement, Vol. 19 (1925), p. 106.

have departed for that area prior to that date or which are known to be fishing in that area shall suffice to catch the limit which shall have been set for that area under section (*b*) of this paragraph;

(*d*) fix the size and character of halibut fishing appliances to be used in any area;

(*e*) make such regulations for the licensing and departure of vessels and for the collection of statistics of the catch of halibut as it shall find necessary to determine the condition and trend of the halibut fishery and to carry out the other provisions of this convention;

(*f*) close to all halibut fishing such portion or portions of an area or areas as the International Fisheries Commission find to be populated by small, immature halibut.

ARTICLE IV

The high contracting parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this convention and any regulations adopted thereunder, with appropriate penalties for violations thereof.

ARTICLE V

The present convention shall remain in force for a period of five years and thereafter until two years from the date when either of the high contracting parties shall give notice to the other of its desire to terminate it.

This convention shall, from the date of the exchange of ratifications, be deemed to supplant the convention for the preservation of the halibut fishery signed at Ottawa, May 9, 1930.

ARTICLE VI

This convention shall be ratified in accordance with the constitutional methods of the high contracting parties. The ratifications shall be exchanged at Ottawa as soon as practicable, and the convention shall come into force on the day of the exchange of ratifications.

In faith whereof, the respective plenipotentiaries have signed the present convention in duplicate, and have hereunto affixed their seals.

Done at Ottawa on the twenty-ninth day of January, in the year one thousand nine hundred and thirty-seven.

NORMAN ARMOUR [SEAL]
W. L. MACKENZIE KING [SEAL]

MEXICO-UNITED STATES

CONVENTION FOR THE RECOVERY AND RETURN OF STOLEN OR EMBEZZLED MOTOR VEHICLES, TRAILERS, AIRPLANES OR COMPONENT PARTS OF ANY OF THEM [1]

Signed at Mexico City, October 6, 1936; ratifications exchanged June 19, 1937

The United States of America and the United Mexican States being mutually desirous that motor vehicles, trailers, airplanes, and the component parts of any of them which may be stolen or embezzled in either country and taken into the territory of the other country shall be recovered and returned to the country of the legitimate owner thereof, have agreed to conclude a convention to give effect to that purpose and have named as their plenipotentiaries:

The President of the United States of America, Josephus Daniels, Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico; and

The President of the United Mexican States, General Eduardo Hay, Secretary of State for Foreign Affairs;

Who, having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE I

Whenever the Government of the United Mexican States through its Embassy in Washington shall so request the Department of State of the United States of America, that Department will use every proper means to bring about the detention of alleged stolen or embezzled motor vehicles, trailers, airplanes or the component parts of any of them.

The request of the Embassy shall be accompanied by documents legally valid in the United Mexican States supporting the claim of the person or persons interested to the property the return of which is requested.

After the property shall have been detained, and in the absence of evidence conclusively controverting the proof just before mentioned, it will be delivered to the person or persons designated for such purpose by the Embassy in Washington of the United Mexican States.

ARTICLE II

Whenever the Government of the United States of America through its Embassy in Mexico City shall so request the Department of Foreign Relations of the United Mexican States, that Department will use every proper means to bring about the detention of alleged stolen or embezzled motor vehicles, trailers, airplanes or the component parts of any of them.

The request of the Embassy shall be accompanied by documents legally valid in the United States of America supporting the claim of the person or persons interested to the property the return of which is requested.

[1] United States Treaty Series, No. 914.

After the property shall have been detained, and in the absence of evidence conclusively controverting the proof just before mentioned, it will be delivered to the person or persons designated for such purpose by the Embassy in Mexico City of the United States of America.

ARTICLE III

When the stolen or embezzled property is held as evidence in a criminal case, in the country where recovered, such detention shall not exceed twenty days from the date of the presentation to the Department of State or the Department of Foreign Relations, as the case may be, of the official request for the return of the property.

ARTICLE IV

The high contracting parties will extend all necessary customs and other facilities in order that the person or persons on whose behalf the return has been made shall receive the stolen property and return with it to the territory of the country from which the request emanated.

ARTICLE V

The high contracting parties will not assess any duties, fines or other monetary penalties upon the property detained and returned under the terms and provisions of this convention. All expenses incident to the return and delivery of the property to the requesting country shall be borne by the person or persons receiving the vehicles or their component parts and such person or persons shall have no claim for compensation against the detaining authorities for damages to the property in connection with its seizure, detention and storage.

ARTICLE VI

The high contracting parties will ratify this convention in accordance with the provisions of their respective constitutions and the exchange of ratifications shall take place in the City of Mexico as soon as possible.

This convention shall remain in force for one year from the date of exchange of ratifications. If upon the expiration of one year notice is not given by either high contracting party of the desire to terminate the same, it shall continue in force until thirty days after either party shall have given notice to the other of the desire to terminate it.

In witness whereof, the respective plenipotentiaries have signed and affixed their seals to this convention.

Done in duplicate, in English and Spanish, at Mexico City, this sixth day of the month of October one thousand nine hundred and thirty six.

JOSEPHUS DANIELS [SEAL]
EDUARDO HAY [SEAL]

TREATY FOR THE LIMITATION OF NAVAL ARMAMENT

TOGETHER WITH PROTOCOL OF SIGNATURE AND ADDITIONAL PROTOCOL[1]

Signed at London, March 25, 1936. Ratifications deposited: United States, July 2, 1936; France, June 24, 1937; Great Britain and Northern Ireland, Canada, Australia, New Zealand, India, July 29, 1937

The President of the United States of America, the President of the French Republic and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India;

Desiring to reduce the burdens and prevent the dangers inherent in competition in naval armament;

Desiring, in view of the forthcoming expiration of the Treaty for the Limitation of Naval Armament signed at Washington on the 6th February, 1922,[2] and of the Treaty for the Limitation and Reduction of Naval Armament signed in London on the 22nd April, 1930[3] (save for Part IV thereof), to make provision for the limitation of naval armament, and for the exchange of information concerning naval construction;

Have resolved to conclude a treaty for these purposes and have appointed as their plenipotentiaries:

The President of the United States of America:

The Honourable Norman H. Davis;

Admiral William H. Standley, United States Navy, Chief of Naval Operations;

The President of the French Republic:

His Excellency Monsieur Charles Corbin, Ambassador Extraordinary and Plenipotentiary of the French Republic at the Court of St. James;

Vice-Admiral Georges Robert, Member of the Supreme Naval Council, Inspector-General of the Naval Forces in the Mediterranean;

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India:

for Great Britain and Northern Ireland and all parts of the British Empire which are not separate Members of the League of Nations:

The Right Honourable Anthony Eden, M. C., M. P., His Principal Secretary of State for Foreign Affairs;

The Right Honourable Viscount Monsell, G. B. E., First Lord of His Admiralty;

Lieutenant-Colonel the Earl Stanhope, K. G., D. S. O., M. C., D. L., Parliamentary Under Secretary of State for Foreign Affairs;

for the Dominion of Canada:

The Honourable Vincent Massey, High Commissioner for the Dominion of Canada in London;

[1] United States Treaty Series, No. 919.

[2] Printed in this JOURNAL, Supplement, Vol. 16 (1922), p. 41.

[3] *Ibid.*, Vol. 25 (1931), p. 63.

for the Commonwealth of Australia:

The Right Honourable Stanley Melbourne Bruce, C. H., M. C., High Commissioner for the Commonwealth of Australia in London;

for the Dominion of New Zealand:

The Honourable Sir Christopher James Parr, G. C. M. G., High Commissioner for the Dominion of New Zealand in London;

for India:

Richard Austen Butler, Esquire, M. P., Parliamentary Under Secretary of State for India.

Who, having communicated to one another their full powers, found in good and due form, have agreed as follows:

Part I

DEFINITIONS

Article 1

For the purposes of the present treaty, the following expressions are to be understood in the sense hereinafter defined.

A.—*Standard Displacement.*

(1) The standard displacement of a surface vessel is the displacement of the vessel, complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

(2) The standard displacement of a submarine is the surface displacement of the vessel complete (exclusive of the water in non-watertight structure), fully manned, engined and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel, lubricating oil, fresh water or ballast water of any kind on board.

(3) The word "ton" except in the expression "metric tons" denotes the ton of 2,240 lb. (1,016 kilos).

B.—*Categories.*

(1) *Capital Ships* are surface vessels of war belonging to one of the two following sub-categories:

(*a*) surface vessels of war, other than aircraft carriers, auxiliary vessels, or capital ships of sub-category (*b*), the standard displacement of which exceeds 10,000 tons (10,160 metric tons) or which carry a gun with a calibre exceeding 8 in. (203 mm.);

(*b*) surface vessels of war, other than aircraft-carriers, the standard displacement of which does not exceed 8,000 tons (8,128 metric tons) and which carry a gun with a calibre exceeding 8 in. (203 mm.).

(2) *Aircraft-Carriers* are surface vessels of war, whatever their displacement, designed or adapted primarily for the purpose of carrying and operating aircraft at sea. The fitting of a landing-on or flying-off deck on any vessel of war, provided such vessel has not been designed or adapted primarily for the purpose of carrying and operating aircraft at sea, shall not cause any vessel so fitted to be classified in the category of aircraft-carriers.

The category of aircraft-carriers is divided into two sub-categories as follows:

(*a*) vessels fitted with a flight deck, from which aircraft can take off, or on which aircraft can land from the air;
(*b*) vessels not fitted with a flight deck as described in (*a*) above.

(3) *Light Surface Vessels* are surface vessels of war other than aircraft-carriers, minor war vessels or auxiliary vessels, the standard displacement of which exceeds 100 tons (102 metric tons) and does not exceed 10,000 tons (10,160 metric tons), and which do not carry a gun with a calibre exceeding 8 in. (203 mm.).

The category of light surface vessels is divided into three sub-categories as follows:

(*a*) vessels which carry a gun with a calibre exceeding 6.1 in. (155 mm.);
(*b*) vessels which do not carry a gun with a calibre exceeding 6.1 in. (155 mm.) and the standard displacement of which exceeds 3,000 tons (3,048 metric tons);
(*c*) vessels which do not carry a gun with a calibre exceeding 6.1 in. (155 mm.) and the standard displacement of which does not exceed 3,000 tons (3,048 metric tons).

(4) *Submarines* are all vessels designed to operate below the surface of the sea.

(5) *Minor War Vessels* are surface vessels of war, other than auxiliary vessels, the standard displacement of which exceeds 100 tons (102 metric tons) and does not exceed 2,000 tons (2,032 metric tons), provided they have none of the following characteristics:

(*a*) mount a gun with a calibre exceeding 6.1 in. (155 mm.);
(*b*) are designed or fitted to launch torpedoes;
(*c*) are designed for a speed greater than twenty knots.

(6) *Auxiliary Vessels* are naval surface vessels the standard displacement of which exceeds 100 tons (102 metric tons), which are normally employed on fleet duties or as troop transports, or in some other way than as fighting ships, and which are not specifically built as fighting ships, provided they have none of the following characteristics:

(*a*) mount a gun with a calibre exceeding 6.1 in. (155 mm.);
(*b*) mount more than eight guns with a calibre exceeding 3 in. (76 mm.);
(*c*) are designed or fitted to launch torpedoes;
(*d*) are designed for protection by armour plate;
(*e*) are designed for a speed greater than twenty-eight knots;
(*f*) are designed or adapted primarily for operating aircraft at sea;
(*g*) mount more than two aircraft-launching apparatus.

(7) *Small Craft* are naval surface vessels the standard displacement of which does not exceed 100 tons (102 metric tons).

C.—*Over Age.*

Vessels of the following categories and sub-categories shall be deemed to be "over-age" when the undermentioned number of years have elapsed since completion:

(*a*) Capital ships	26 years
(*b*) Aircraft-carriers	20 years
(*c*) Light surface vessels, sub-categories (*a*) and (*b*):	
(i) if laid down before 1st January, 1920	16 years
(ii) if laid down after 31st December, 1919	20 years
(*d*) Light surface vessels, sub-category (*c*)	16 years
(*e*) Submarines	13 years

D.—*Month.*

The word "month" in the present treaty with reference to a period of time denotes the month of thirty days.

Part II

LIMITATION

ARTICLE 2

After the date of the coming into force of the present treaty, no vessel exceeding the limitations as to displacement or armament prescribed by this part of the present treaty shall be acquired by any high contracting party or constructed by, for or within the jurisdiction of any high contracting party.

ARTICLE 3

No vessel which at the date of the coming into force of the present treaty carries guns with a calibre exceeding the limits prescribed by this part of the present treaty shall, if reconstructed or modernized, be rearmed with guns of a greater calibre than those previously carried by her.

ARTICLE 4

(1) No capital ship shall exceed 35,000 tons (35,560 metric tons) standard displacement.

(2) No capital ship shall carry a gun with a calibre exceeding 14 in. (356 mm.); provided however that if any of the parties to the Treaty for the Limitation of Naval Armament signed at Washington on the 6th February, 1922, should fail to enter into an agreement to conform to this provision prior to the date of the coming into force of the present treaty, but in any case not later than the 1st April, 1937, the maximum calibre of gun carried by capital ships shall be 16 in. (406 mm.).

(3) No capital ship of sub-category (*a*), the standard displacement of which is less than 17,500 tons (17,780 metric tons), shall be laid down or acquired prior to the 1st January, 1943.

(4) No capital ship, the main armament of which consists of guns of less than 10 in. (254 mm.) calibre, shall be laid down or acquired prior to the 1st January, 1943.

Article 5

(1) No aircraft carrier shall exceed 23,000 tons (23,368 metric tons) standard displacement or carry a gun with a calibre exceeding 6.1 in. (155 mm.).

(2) If the armament of any aircraft carrier includes guns exceeding 5.25 in. (134 mm.) in calibre, the total number of guns carried which exceed that calibre shall not be more than ten.

Article 6

(1) No light surface vessel of sub-category (*b*) exceeding 8,000 tons (8,128 metric tons) standard displacement, and no light surface vessel of sub-category (*a*) shall be laid down or acquired prior to the 1st January, 1943.

(2) Notwithstanding the provisions of paragraph (1) above, if the requirements of the national security of any high contracting party are, in his opinion, materially affected by the actual or authorized amount of construction by any Power of light surface vessels of sub-category (*b*), or of light surface vessels not conforming to the restrictions of paragraph (1) above, such high contracting party shall, upon notifying the other high contracting parties of his intentions and the reasons therefor, have the right to lay down or acquire light surface vessels of sub-categories (*a*) and (*b*) of any standard displacement up to 10,000 tons (10,610 metric tons) subject to the observance of the provisions of Part III of the present treaty. Each of the other high contracting parties shall thereupon be entitled to exercise the same right.

(3) It is understood that the provisions of paragraph (1) above constitute no undertaking expressed or implied to continue the restrictions therein prescribed after the year 1942.

Article 7

No submarine shall exceed 2,000 tons (2,032 metric tons) standard displacement or carry a gun exceeding 5.1 in. (130 mm.) in calibre.

ARTICLE 8

Every vessel shall be rated at its standard displacement, as defined in Article 1A of the present treaty.

ARTICLE 9

No preparations shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of converting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6.1 in. (155 mm.) in calibre.

ARTICLE 10

Vessels which were laid down before the date of the coming into force of the present treaty, the standard displacement or armament of which exceeds the limitations or restrictions prescribed in this part of the present treaty for their category or sub-category, or vessels which before that date were converted to target use exclusively or retained exclusively for experimental or training purposes under the provisions of previous treaties, shall retain the category or designation which applied to them before the said date.

Part III

ADVANCE NOTIFICATION AND EXCHANGE OF INFORMATION

ARTICLE 11

(1) Each of the high contracting parties shall communicate every year to each of the other high contracting parties information, as hereinafter provided, regarding his annual programme for the construction and acquisition of all vessels of the categories and sub-categories mentioned in Article 12 (*a*), whether or not the vessels concerned are constructed within his own jurisdiction, and periodical information giving details of such vessels and of any alterations to vessels of the said categories or sub-categories already completed.

(2) For the purposes of this and the succeeding parts of the present treaty, information shall be deemed to have reached a high contracting party on the date upon which such information is communicated to his diplomatic representatives accredited to the high contracting party by whom the information is given.

(3) This information shall be treated as confidential until published by the high contracting party supplying it.

ARTICLE 12

The information to be furnished under the preceding article in respect of vessels constructed by or for a high contracting party shall be given as follows; and so as to reach all the other high contracting parties within the periods or at the times mentioned:

(*a*) Within the first four months of each calendar year, the annual programme of construction of all vessels of the following categories and sub-categories, stating the number of vessels of each category or sub-category and, for each vessel, the calibre of the largest gun. The categories and sub-categories in question are:

Capital Ships—
sub-category (*a*)
sub-category (*b*)
Aircraft-Carriers—
sub-category (*a*)
sub-category (*b*)
Light Surface Vessels—
sub-category (*a*)
sub-category (*b*)
sub-category (*c*)
Submarines.

(*b*) Not less than four months before the date of the laying of the keel, the following particulars in respect of each such vessel:

Name or designation;
Category and sub-category;
Standard displacement in tons and metric tons;
Length at waterline at standard displacement;
Extreme beam at or below waterline at standard displacement;
Mean draught at standard displacement;
Designed horse-power;
Designed speed;
Type of machinery;
Type of fuel;
Number and calibre of all guns of 3 in. (76 mm.) calibre and above;
Approximate number of guns of less than 3 in. (76 mm.) calibre;
Number of torpedo tubes;
Whether designed to lay mines;
Approximate number of aircraft for which provision is to be made.

(*c*) As soon as possible after the laying-down of the keel of each such vessel, the date on which it was laid.

(*d*) Within one month after the date of completion of each such vessel, the date of completion together with all the particulars specified in paragraph (*b*) above relating to the vessel on completion.

(*e*) Annually during the month of January, in respect of vessels belonging to the categories and sub-categories mentioned in paragraph (*a*) above:

(i) Information as to any important alterations which it may have proved necessary to make during the preceding year in vessels under construction, in so far as these alterations affect the particulars mentioned in paragraph (*b*) above.

(ii) Information as to any important alterations made during the preceding year in vessels previously completed, in so far as these alterations affect the particulars mentioned in paragraph (*b*) above.

(iii) Information concerning vessels which may have been scrapped or otherwise disposed of during the preceding year. If such

vessels are not scrapped, sufficient information shall be given to enable their new status and condition to be determined.

(*f*) Not less than four months before undertaking such alterations as would cause a completed vessel to come within one of the categories or sub-categories mentioned in paragraph (*a*) above, or such alterations as would cause a vessel to change from one to another of the said categories or sub-categories: information as to her intended characteristics as specified in paragraph (*b*) above.

ARTICLE 13

No vessel coming within the categories or sub-categories mentioned in Article 12 (*a*) shall be laid down by any high contracting party until after the expiration of a period of four months both from the date on which the annual programme in which the vessel is included, and from the date on which the particulars in respect of that vessel prescribed by Article 12 (*b*), have reached all the other high contracting parties.

ARTICLE 14

If a high contracting party intends to acquire a completed or partially completed vessel coming within the categories or sub-categories mentioned in Article 12 (*a*), that vessel shall be declared at the same time and in the same manner as the vessels included in the annual programme prescribed in the said article. No such vessel shall be acquired until after the expiration of a period of four months from the date on which such declaration has reached all the other high contracting parties. The particulars mentioned in Article 12 (*b*), together with the date on which the keel was laid, shall be furnished in respect of such vessel so as to reach all the other high contracting parties within one month after the date on which the contract for the acquisition of the vessel was signed. The particulars mentioned in Article 12 (*d*), (*e*) and (*f*) shall be given as therein prescribed.

ARTICLE 15

At the time of communicating the annual programme prescribed by Article 12 (*a*), each high contracting party shall inform all the other high contracting parties of all vessels included in his previous annual programmes and declarations that have not yet been laid down or acquired, but which it is the intention to lay down or acquire during the period covered by the first mentioned annual programme.

ARTICLE 16

If, before the keel of any vessel coming within the categories or sub-categories mentioned in Article 12 (*a*) is laid, any important modification is made in the particulars regarding her which have been communicated under Article 12 (*b*), information concerning this modification shall be given, and the laying of the keel shall be deferred until at least four months after this information has reached all the other high contracting parties.

ARTICLE 17

No high contracting party shall lay down or acquire any vessel of the categories or sub-categories mentioned in Article 12 (*a*), which has not previously been included in his annual programme of construction or declaration of acquisition for the current year or in any earlier annual programme or declaration.

ARTICLE 18

If the construction, modernization or reconstruction of any vessel coming within the categories or sub-categories mentioned in Article 12 (*a*), which is for the order of a Power not a party to the present treaty, is undertaken within the jurisdiction of any high contracting party, he shall promptly inform all the other high contracting parties of the date of the signing of the contract and shall also give as soon as possible in respect of the vessel all the information mentioned in Article 12 (*b*), (*c*) and (*d*).

ARTICLE 19

Each high contracting party shall give lists of all his minor war vessels and auxiliary vessels with their characteristics, as enumerated in Article 12 (*b*), and information as to the particular service for which they are intended, so as to reach all the other high contracting parties within one month after the date of the coming into force of the present treaty; and, so as to reach all the other high contracting parties within the month of January in each subsequent year, any amendments in the lists and changes in the information.

ARTICLE 20

Each of the high contracting parties shall communicate to each of the other high contracting parties, so as to reach the latter within one month after the date of the coming into force of the present treaty, particulars, as mentioned in Article 12 (*b*), of all vessels of the categories or sub-categories mentioned in Article 12 (*a*), which are then under construction for him, whether or not such vessels are being constructed within his own jurisdiction, together with similar particulars relating to any such vessels then under construction within his own jurisdiction for a Power not a party to the present treaty.

ARTICLE 21

(1) At the time of communicating his initial annual programme of construction and declaration of acquisition, each high contracting party shall inform each of the other high contracting parties of any vessels of the categories or sub-categories mentioned in Article 12 (*a*), which have been previously authorized and which it is the intention to lay down or acquire during the period covered by the said programme.

(2) Nothing in this part of the present treaty shall prevent any high contracting party from laying down or acquiring, at any time during the four

months following the date of the coming into force of the treaty, any vessel included, or to be included, in his initial annual programme of construction or declaration of acquisition, or previously authorized, provided that the information prescribed by Article 12 (*b*) concerning each vessel shall be communicated so as to reach all the other high contracting parties within one month after the date of the coming into force of the present treaty.

(3) If the present treaty should not come into force before the 1st May, 1937, the initial annual programme of construction and declaration of acquisition, to be communicated under Articles 12 (*a*) and 14 shall reach all the other high contracting parties within one month after the date of the coming into force of the present treaty.

Part IV

GENERAL AND SAFEGUARDING CLAUSES

ARTICLE 22

No high contracting party shall, by gift, sale or any mode of transfer, dispose of any of his surface vessels of war or submarines in such a manner that such vessel may become a surface vessel of war or a submarine in any foreign navy. This provision shall not apply to auxiliary vessels.

ARTICLE 23

(1) Nothing in the present treaty shall prejudice the right of any high contracting party, in the event of loss or accidental destruction of a vessel, before the vessel in question has become over-age, to replace such vessel by a vessel of the same category or sub-category as soon as the particulars of the new vessel mentioned in Article 12 (*b*) shall have reached all the other high contracting parties.

(2) The provisions of the preceding paragraph shall also govern the immediate replacement, in such circumstances, of a light surface vessel of the sub-category (*b*) exceeding 8,000 tons (8,128 metric tons) standard displacement, or of a light surface vessel of sub-category (*a*), before the vessel in question has become over-age, by a light surface vessel of the same sub-category of any standard displacement up to 10,000 tons (10,160 metric tons).

ARTICLE 24

(1) If any high contracting party should become engaged in war, such high contracting party may, if he considers the naval requirements of his defence are materially affected, suspend, in so far as he is concerned, any or all of the obligations of the present treaty, provided that he shall promptly notify the other high contracting parties that the circumstances require such suspension, and shall specify the obligations it is considered necessary to suspend.

(2) The other high contracting parties shall in such case promptly consult

together, and shall examine the situation thus presented with a view to agreeing as to the obligations of the present treaty, if any, which each of the said high contracting parties may suspend. Should such consultation not produce agreement, any of the said high contracting parties may suspend, in so far as he is concerned, any or all of the obligations of the present treaty, provided that he shall promptly give notice to the other high contracting parties of the obligations which it is considered necessary to suspend.

(3) On the cessation of hostilities, the high contracting parties shall consult together with a view to fixing a date upon which the obligations of the treaty which have been suspended shall again become operative, and to agreeing upon any amendments in the present treaty which may be considered necessary.

ARTICLE 25

(1) In the event of any vessel not in conformity with the limitations and restrictions as to standard displacement and armament prescribed by Articles 4, 5 and 7 of the present treaty being authorized, constructed or acquired by a Power not a party to the present treaty, each high contracting party reserves the right to depart if, and to the extent to which, he considers such departures necessary in order to meet the requirements of his national security;

(*a*) during the remaining period of the treaty, from the limitations and restrictions of Articles 3, 4, 5, 6 (1) and 7, and

(*b*) during the current year, from his annual programmes of construction and declarations of acquisition.

This right shall be exercised in accordance with the following provisions:

(2) Any high contracting party who considers it necessary that such right should be exercised, shall notify the other high contracting parties to that effect, stating precisely the nature and extent of the proposed departures and the reasons therefor.

(3) The high contracting parties shall thereupon consult together and endeavor to reach an agreement with a view to reducing to a minimum the extent of the departures which may be made.

(4) On the expiration of a period of three months from the date of the first of any notifications which may have been given under paragraph (2) above, each of the high contracting parties shall, subject to any agreement which may have been reached to the contrary, be entitled to depart during the remaining period of the present treaty from the limitations and restrictions prescribed in Articles 3, 4, 5, 6 (1) and 7 thereof.

(5) On the expiration of the period mentioned in the preceding paragraph, any high contracting party shall be at liberty, subject to any agreement which may have been reached during the consultations provided for in paragraph (3) above, and on informing all the other high contracting parties, to depart from his annual programmes of construction and declarations of acquisition

and to alter the characteristics of any vessels building or which have already appeared in his programmes or declarations.

(6) In such event, no delay in the acquisition, the laying of the keel, or the altering of any vessel shall be necessary by reason of any of the provisions of Part III of the present treaty. The particulars mentioned in Article 12 (*b*) shall, however, be communicated to all the other high contracting parties before the keels of any vessels are laid. In the case of acquisition, information relating to the vessel shall be given under the provisions of Article 14.

ARTICLE 26

(1) If the requirements of the national security of any high contracting party should, in his opinion, be materially affected by any change of circumstances, other than those provided for in Articles 6 (2), 24 and 25 of the present treaty, such high contracting party shall have the right to depart for the current year from his annual programmes of construction and declarations of acquisition. The amount of construction by any party to the treaty, within the limitations and restrictions thereof, shall not, however, constitute a change of circumstances for the purposes of the present article. The above-mentioned right shall be exercised in accordance with the following provisions:

(2) Such high contracting party shall, if he desires to exercise the above mentioned right, notify all the other high contracting parties to that effect, stating in what respects he proposes to depart from his annual programmes of construction and declarations of acquisition, giving reasons for the proposed departure.

(3) The high contracting parties will thereupon consult together with a view to agreement as to whether any departures are necessary in order to meet the situation.

(4) On the expiration of a period of three months from the date of the first of any notifications which may have been given under paragraph (2) above, each of the high contracting parties shall, subject to any agreement which may have been reached to the contrary, be entitled to depart from his annual programmes of construction and declarations of acquisition, provided notice is promptly given to the other high contracting parties stating precisely in what respects he proposes so to depart.

(5) In such event, no delay in the acquisition, the laying of the keel, or the altering of any vessel shall be necessary by reason of any of the provisions of Part III of the present treaty. The particulars mentioned in Article 12 (*b*) shall, however, be communicated to all the other high contracting parties before the keels of any vessels are laid. In the case of acquisition, information relating to the vessel shall be given under the provisions of Article 14.

Part V

FINAL CLAUSES

ARTICLE 27

The present treaty shall remain in force until the 31st December, 1942.

ARTICLE 28

(1) His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland will, during the last quarter of 1940, initiate through the diplomatic channel a consultation between the Governments of the parties to the present treaty with a view to holding a conference in order to frame a new treaty for the reduction and limitation of naval armament. This conference shall take place in 1941 unless the preliminary consultations should have shown that the holding of such a conference at that time would not be desirable or practicable.

(2) In the course of the consultation referred to in the preceding paragraph, views shall be exchanged in order to determine whether, in the light of the circumstances then prevailing and the experience gained in the interval in the design and construction of capital ships, it may be possible to agree upon a reduction in the standard displacement or calibre of guns of capital ships to be constructed under future annual programmes and thus, if possible, to bring about a reduction in the cost of capital ships.

ARTICLE 29

None of the provisions of the present treaty shall constitute a precedent for any future treaty.

ARTICLE 30

(1) The present treaty shall be ratified by the signatory Powers in accordance with their respective constitutional methods, and the instruments of ratification shall be deposited as soon as possible with His Majesty's Government in the United Kingdom, which will transmit certified copies of all the *procès-verbaux* of the deposits of ratifications to the Governments of the said Powers and of any country on behalf of which accession has been made in accordance with the provisions of Article 31.

(2) The treaty shall come into force on the 1st January, 1937, provided that by that date the instruments of ratification of all the said Powers shall have been deposited. If all the above-mentioned instruments of ratification have not been deposited by the 1st January, 1937, the treaty shall come into force so soon thereafter as these are all received.

ARTICLE 31

(1) The present treaty shall, at any time after this day's date, be open to accession on behalf of any country for which the Treaty for the Limitation

and Reduction of Naval Armament was signed in London on the 22nd April, 1930, but for which the present treaty has not been signed. The instrument of accession shall be deposited with His Majesty's Government in the United Kingdom, which will transmit certified copies of the *procès-verbaux* of the deposit to the Governments of the signatory Powers and of any country on behalf of which accession has been made.

(2) Accessions, if made prior to the date of the coming into force of the treaty, shall take effect on that date. If made afterwards, they shall take effect immediately.

(3) If accession should be made after the date of the coming into force of the treaty, the following information shall be given by the acceding Power so as to reach all the other high contracting parties within one month after the date of accession:

(*a*) The initial annual programme of construction and declaration of acquisition, as prescribed by Articles 12 (*a*) and 14, relating to vessels already authorized, but not yet laid down or acquired, belonging to the categories or sub-categories mentioned in Article 12 (*a*).

(*b*) A list of the vessels of the above-mentioned categories or sub-categories completed or acquired after the date of the coming into force of the present treaty, stating particulars of such vessels as specified in Article 12 (*b*), together with similar particulars relating to any such vessels which have been constructed within the jurisdiction of the acceding Power after the date of the coming into force of the present treaty, for a Power not a party thereto.

(*c*) Particulars, as specified in Article 12 (*b*), of all vessels of the categories or sub-categories above-mentioned which are then under construction for the acceding Power, whether or not such vessels are being constructed within his own jurisdiction, together with similar particulars relating to any such vessels then under construction within his jurisdiction for a Power not a party to the present treaty.

(*d*) Lists of all minor war vessels and auxiliary vessels with their characteristics and information concerning them, as prescribed by Article 19.

(4) Each of the high contracting parties shall reciprocally furnish to the Government of any country on behalf of which accession is made after the date of the coming into force of the present treaty, the information specified in paragraph (3) above, so as to reach that Government within the period therein mentioned.

(5) Nothing in Part III of the present treaty shall prevent an acceding Power from laying down or acquiring, at any time during the four months following the date of accession, any vessel included, or to be included, in his initial annual programme of construction or declaration of acquisition, or previously authorized, provided that the information prescribed by Article 12 (*b*) concerning each vessel shall be communicated so as to reach all the other high contracting parties within one month after the date of accession.

ARTICLE 32

The present treaty, of which the French and English texts shall both be equally authentic, shall be deposited in the archives of His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland which will transmit certified copies thereof to the Governments of the countries for which the Treaty for the Limitation and Reduction of Naval Armament was signed in London on the 22nd April, 1930.

In faith whereof the above-named plenipotentiaries have signed the present treaty and have affixed thereto their seals.

Done in London the 25th day of March, nineteen hundred and thirty-six.

[SEAL]	NORMAN H. DAVIS
[SEAL]	WILLIAM H. STANDLEY
[SEAL]	CHARLES CORBIN
[SEAL]	ROBERT G.
[SEAL]	ANTHONY EDEN
[SEAL]	MONSELL
[SEAL]	STANHOPE
[SEAL]	VINCENT MASSEY
[SEAL]	S. M. BRUCE
[SEAL]	C. J. PARR
[SEAL]	R. A. BUTLER

PROTOCOL OF SIGNATURE

At the moment of signing the treaty bearing this day's date, the undersigned, duly authorized to that effect by their respective Governments, have agreed as follows:

1. If, before the coming into force of the above-mentioned treaty, the naval construction of any Power, or any change of circumstances, should appear likely to render undesirable the coming into force of the treaty in its present form, the Powers on behalf of which the treaty has been signed will consult as to whether it is desirable to modify any of its terms to meet the situation thus presented.

2. In the event of the treaty not coming into force on the 1st January, 1937, the above-mentioned Powers will, as a temporary measure, promptly communicate to one another, after the laying down, acquisition or completion of any vessels in the categories or sub-categories mentioned in Article 12 (*a*) of the treaty, the information detailed below concerning all such vessels laid down between the 1st January, 1937 and the date of the coming into force of the treaty, provided, however, that this obligation shall not continue after 1st July, 1937:

Name or designation;
Classification of the vessel;
Standard displacement in tons and metric tons;
Principal dimensions at standard displacement, namely length at waterline and extreme beam at or below waterline;

Mean draught at standard displacement;
Calibre of the largest gun.

3. The present protocol, of which the French and English texts shall both be equally authentic, shall come into force on this day's date. It shall be deposited in the archives of His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland which will transmit certified copies thereof to the Governments of the countries for which the Treaty for the Limitation and Reduction of Naval Armament was signed in London on the 22nd April, 1930.

In faith whereof the above-named plenipotentiaries have signed the present protocol and have affixed thereto their seals.

Done in London the 25th day of March, nineteen hundred and thirty-six.

[SEAL]	NORMAN H. DAVIS
[SEAL]	WILLIAM H. STANDLEY
[SEAL]	CHARLES CORBIN
[SEAL]	ROBERT G.
[SEAL]	ANTHONY EDEN
[SEAL]	MONSELL
[SEAL]	STANHOPE
[SEAL]	VINCENT MASSEY
[SEAL]	S. M. BRUCE
[SEAL]	C. J. PARR
[SEAL]	R. A. BUTLER

ADDITIONAL PROTOCOL

The undersigned plenipotentiaries express the hope that the system of advance notification and exchange of information will be continued by international agreement after the expiration of the treaty bearing this day's date, and that it may be possible in any future treaty to achieve some further measure of reduction in naval armament.

Done in London the 25th day of March, nineteen hundred and thirty-six.

NORMAN H. DAVIS
WILLIAM H. STANDLEY
CHARLES CORBIN
ROBERT G.
ANTHONY EDEN
MONSELL
STANHOPE
VINCENT MASSEY
S. M. BRUCE
C. J. PARR
R. A. BUTLER

UNION OF SOVIET SOCIALIST REPUBLICS–UNITED STATES

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT IN REGARD TO COMMERCIAL RELATIONS[1]

Moscow, August 4, 1937

[Joseph E. Davies, Ambassador of the United States, to Maxim Litvinoff, People's Commissar for Foreign Affairs, and M. Litvinoff to Mr. Davies, *mutatis mutandis*.]

With reference to recent conversations which have taken place in regard to commerce between the United States of America and the Union of Soviet Socialist Republics, I have the honor to confirm and to make of record by this note the following agreement which has been reached between the Governments of our respective countries:

One. The United States of America will grant to the Union of Soviet Socialist Republics unconditional and unrestricted most-favored-nation treatment in all matters concerning customs duties and charges of every kind and in the method of levying duties, and, further, in all matters concerning the rules, formalities and charges imposed in connection with the clearing of goods through the customs, and with respect to all laws or regulations affecting the sale or use of imported goods within the country.

Accordingly, natural or manufactured products having their origin in the Union of Soviet Socialist Republics shall in no case be subject, in regard to the matters referred to above, to any duties, taxes or charges other or higher, or to any rules or formalities other or more burdensome, than those to which the like products having their origin in any third country are or may hereafter be subject.

Similarly, natural or manufactured products exported from the territory of the United States of America and consigned to the territory of the Union of Soviet Socialist Republics shall in no case be subject with respect to exportation and in regard to the above-mentioned matters, to any duties, taxes, or charges other or higher, or to any rules or formalities other or more burdensome, than those to which the like products when consigned to the territory of any third country are or may hereafter be subject.

Any advantage, favor, privilege or immunity which has been or may hereafter be granted by the United States of America in regard to the above-mentioned matters, to a natural or manufactured product originating in any third country or consigned to the territory of any third country shall be accorded immediately and without compensation to the like product originating in or consigned to the territory of the Union of Soviet Socialist Republics.

It is understood that so long as and in so far as existing law of the United States of America may otherwise require, the foregoing provisions, in so far as they would otherwise relate to duties, taxes or charges on coal, coke manu-

[1] United States Executive Agreement Series, No. 105. The agreement made by exchange of notes July 13, 1935 (see this JOURNAL, Vol. 29, 1935, p. 653), was continued in force until July 13, 1937, by an exchange of notes, July 11, 1936 (Ex. Agr. Ser., No. 96).—ED.

factured therefrom, or coal or coke briquettes, shall not apply to such products imported into the United States of America. If the law of the United States of America shall not permit the complete operation of the foregoing provisions with respect to the above-mentioned products, the Union of Soviet Socialist Republics reserves the right within fifteen days after January 1, 1938, to terminate this agreement in its entirety on thirty days' written notice.

It is understood, furthermore, that the advantages now accorded or which may hereafter be accorded by the United States of America, its territories or possessions, the Philippine Islands, or the Panama Canal Zone to one another or to the Republic of Cuba shall be excepted from the operation of this agreement.

Nothing in this agreement shall be construed to prevent the adoption of measures prohibiting or restricting the exportation or importation of gold or silver, or to prevent the adoption of such measures as the Government of the United States of America may see fit with respect to the control of the export or sale for export of arms, ammunition, or implements of war, and, in exceptional cases, all other military supplies. It is understood that any action which may be taken by the President of the United States of America under the authority of Section 2 (b) of the Neutrality Act of 1937 in regard to the passage of title to goods shall not be considered as contravening any of the provisions of this agreement relating to the exportation of natural or manufactured products from the territory of the United States of America.

Subject to the requirement that no arbitrary discrimination shall be effected by the United States of America against importations from the Union of Soviet Socialist Republics and in favor of those from any third country, the foregoing provisions shall not extend to prohibitions or restrictions (1) imposed on moral or humanitarian grounds, (2) designed to protect human, animal, or plant life, (3) relating to prison-made goods, or (4) relating to the enforcement of police or revenue laws.

Two. On its part the Government of the Union of Soviet Socialist Republics will take steps to increase substantially the amount of purchases in the United States of America for export to the Union of Soviet Socialist Republics of articles the growth, produce, or manufacture of the United States of America.

Three. This agreement shall come into force on the day of proclamation thereof by the President of the United States of America and of approval thereof by the Soviet of People's Commissars of the Union of Soviet Socialist Republics, which proclamation and approval shall take place on the same day. It shall continue in effect for twelve months. Both parties agree that not less than thirty days prior to the expiration of the aforesaid period of twelve months they shall start negotiations regarding the extension of the period during which the present agreement shall continue in force.

Related Notes

1. CONCERNING THE AMOUNT OF PURCHASES TO BE MADE BY THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE UNITED STATES OF AMERICA

The American Ambassador (Davies) to the People's Commissar for Foreign Affairs (Litvinoff)

EMBASSY OF THE UNITED STATES OF AMERICA,
Moscow, August 2, 1937.

EXCELLENCY:

I have the honor to refer to our recent conversations in regard to the commerce between the United States of America and the Union of Soviet Socialist Republics and to ask you to let me know the value of articles, the growth, produce, or manufacture of the United States of America which the Government of the Union of Soviet Socialist Republics intends to purchase in the United States of America during the next twelve months for export to the Union of Soviet Socialist Republics.

Accept, Excellency, the renewed assurances of my highest consideration.

JOSEPH E. DAVIES
Ambassador of the United States of America

His Excellency
MAXIM LITVINOFF,
People's Commissar for Foreign Affairs,
Moscow.

The People's Commissar for Foreign Affairs (Litvinoff) to the American Ambassador (Davies)

MOSCOW, *August "5", 1937.*

MR. AMBASSADOR:

In reply to your inquiry regarding the intended purchases by the Union of Soviet Socialist Republics in the United States of America in the course of the next twelve months, I have the honour to inform you that, according to information received by me from the People's Commissariat for Foreign Trade, the economic organizations of the Union of Soviet Socialist Republics intend to buy in the United States of America in the course of the next twelve months American goods to the amount of at least forty million dollars.

Accept, Mr. Ambassador, the renewed assurances of my highest consideration.

M. LITVINOFF

Mr. JOSEPH E. DAVIES,
Ambassador of the United States of America,
Moscow.

2. EXEMPTION FROM EXCISE TAX OF COAL, COKE, AND COAL OR COKE BRIQUETTES IMPORTED INTO THE UNITED STATES FROM THE UNION OF SOVIET SOCIALIST REPUBLICS

The American Ambassador (Davies) to the People's Commissar for Foreign Affairs (Litvinoff)

EMBASSY OF THE UNITED STATES OF AMERICA,
Moscow, August 4, 1937.

EXCELLENCY:

With reference to the agreement concerning commerce between the United States of America and the Union of Soviet Socialist Republics which has been signed today, I have the honor to state that the Embassy has been informed that in view of the wording of Section 1 of the agreement, the authorities of the Treasury Department of the United States will hold that coal of all sizes, grades, and classifications (except culm and duff), coke manufactured therefrom, and coal or coke briquettes, imported from the Union of Soviet Socialist Republics will be exempt from the excise tax provided in Section 601 (c) (5) of the Revenue Act of 1932, as amended, subject, however, to possible adverse action by the courts.

Accept, Excellency, the renewed assurances of my highest consideration.

JOSEPH E. DAVIES
Ambassador of the United States of America

His Excellency
MAXIM LITVINOFF,
People's Commissar for Foreign Affairs,
Moscow.

The People's Commissar for Foreign Affairs (Litvinoff) to the American Ambassador (Davies)

MOSCOW, *August 4, 1937.*

DEAR MR. AMBASSADOR:

In reply to your inquiry regarding the intended exports of Soviet coal to the United States during the ensuing twelve months, I may state that, according to information received by me from the People's Commissariat for Foreign Trade, the economic organizations of the Union of Soviet Socialist Republics will not in any case export to the United States during the year beginning August 6, 1937, more than 400,000 tons of Soviet coal.

Sincerely yours,

M. LITVINOFF

Mr. JOSEPH E. DAVIES,
Ambassador of the United States of America,
Moscow.

UNITED STATES

AN ACT FOR THE PROTECTION OF THE NORTHERN PACIFIC HALIBUT FISHERY [1]

Approved June 28, 1937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Northern Pacific Halibut Act of 1937."

SEC. 2. When used in this Act—

(*a*) Convention: The word "Convention" means the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa on the 29th day of January 1937,[2] and shall include the regulations of the International Fisheries Commission promulgated thereunder.

(*b*) Commission: The word "Commission" means the International Fisheries Commission provided for by Article III of the Convention.

(*c*) Person: The word "person" includes partnerships, associations, and corporations.

(*d*) Territorial waters of the United States: The term "territorial waters of the United States" means the territorial waters contiguous to the western coast of the United States and the territorial waters contiguous to the southern and western coasts of Alaska.

(*e*) Territorial waters of Canada: The term "territorial waters of Canada" means the territorial waters contiguous to the western coast of Canada.

(*f*) Convention waters: The term "Convention waters" means the territorial waters of the United States, the territorial waters of Canada, and the high seas of the Northern Pacific Ocean and the Bering Sea, extending westerly from the limits of the territorial waters of the United States and of Canada.

(*g*) Halibut: The word "halibut" means the species of Hippoglossus inhabiting Convention waters.

(*h*) Vessel: The word "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water.

SEC. 3. It shall be unlawful for—

(*a*) any person other than a national or inhabitant of the United States to catch or attempt to catch any halibut in the territorial waters of the United States;

(*b*) any person to transfer to or to receive upon any vessel of the United States, or to bring to any place within the jurisdiction of the United States any halibut caught in Convention waters by the use of any vessel of a nation not a party to the Convention, or caught in Convention waters by any national or inhabitant of the United States or Canada in violation of the Convention or of this Act;

[1] Public No. 169, 75th Cong., Chap. 392, 1st Sess. [S. 1984]. [2] Printed *supra*, p. 71.

(*c*) any national or inhabitant of the United States to catch, attempt to catch, or to possess any halibut in the territorial waters of the United States or in Convention waters in violation of any provision of the Convention or of this Act;

(*d*) any person within the territory or jurisdiction of the United States to furnish, prepare, outfit, or provision any vessel, other than a vessel of the United States or Canada, in connection with any voyage during which such vessel is intended to be, is being, or has been employed in catching, attempting to catch, or possessing any halibut in Convention waters or the territorial waters of the United States or Canada;

(*e*) any person within the territory or jurisdiction of the United States to furnish, prepare, outfit, or provision any vessel of the United States or Canada in connection with any voyage during which such vessel is intended to be, is being, or has been employed in catching, attempting to catch, or possessing any halibut in violation of any provision of the Convention or of this Act;

(*f*) any person within the territory or jurisdiction of the United States or any national or inhabitant of the United States within Convention waters knowingly to have or have had in his possession any halibut taken, transferred, received, or brought in in violation of any provision of the Convention or of this Act;

(*g*) any person to depart from any place within the jurisdiction of the United States in any vessel which departs from such place in violation of the Convention or of this Act;

(*h*) any person in the territorial waters of the United States or any national or inhabitant of the United States in Convention waters to catch or attempt to catch any halibut, or to possess any halibut caught incidentally to fishing for other species of fish by the use of or in any vessel required by the Convention to have on board any license or permit unless such vessel shall have on board a license or permit which shall comply with all applicable requirements of the Convention, and which shall be available for inspection at any time by any officer authorized to enforce the Convention or by any representative of the Commission;

(*i*) any person to take, retain, land, or possess any halibut caught incidentally to fishing for other species of fish, in violation of any provision of the Convention or of this Act.

SEC. 4. It shall be unlawful for the master or owner or person in charge of any vessel or any other person required by the Convention to make, keep, or furnish any record or report, to fail to do so, or to refuse to permit any officer authorized to enforce the Convention or any representative of the Commission to examine and inspect any such record or report at any time.

SEC. 5. (*a*) The provisions of the Convention and of this Act and any regulations issued under this Act shall be enforced by the Coast Guard, the Customs Service, and the Bureau of Fisheries. For such purposes any officer of the Coast Guard, Customs, or Fisheries may at any time go on board of

any vessel in territorial waters of the United States, or any vessel of the United States or Canada in Convention waters, except in the territorial waters of Canada, to address inquiries to those on board and to examine, inspect, and search the vessel and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel, and use all necessary force to compel compliance.

(*b*) Whenever it appears to any such officer that any person, other than a national or inhabitant of Canada, on any vessel of the United States is violating or has violated any provision of the Convention or of this Act, he shall arrest such person and seize any such vessel employed in such violation. If any such person on any such vessel of the United States is a national or inhabitant of Canada, such person shall be detained and shall be delivered as soon as practicable to an authorized officer of Canada at the Canadian port or place nearest to the place of detention or at such other port or place as such officers of the United States and of Canada may agree upon.

(*c*) Whenever it appears to any such officer of the United States that any person, other than a national or inhabitant of the United States, on any vessel of Canada in Convention waters, except in the territorial waters of Canada, is violating or has violated any provision of the Convention, such person, and any such vessel employed in such violation, shall be detained and such person and such vessel shall be delivered as soon as practicable to an authorized officer of Canada at the Canadian port or place nearest to the place of detention, or at such other port or place as such officers of the United States and of Canada may agree upon. If any such person on any such vessel of Canada is a national or inhabitant of the United States, such person shall be arrested as provided for in subsection (b) of this section.

(*d*) Officers or employees of the Coast Guard, Customs, and Fisheries may be directed to attend as witnesses and to produce such available records and files or certified copies thereof as may be produced compatibly with the public interest and as may be considered essential to the prosecution in Canada of any violation of the provisions of the Convention or any Canadian law for the enforcement thereof when requested by the appropriate Canadian authorities in the manner prescribed in Article V of the Convention to suppress smuggling concluded between the United States and Canada on June 6, 1924 (44 Stat. (pt. 3), 2097).[3]

SEC. 6. (*a*) Any person violating any provision of section 3 of this Act upon conviction shall be fined not more than $1,000 nor less than $100 or be imprisoned for not more than one year, or both.

(*b*) The cargo of halibut of every vessel employed in any manner in connection with the violation of any provision of Section 3 of this Act shall be forfeited; upon a second violation of the provisions of Section 3 of this Act, every such vessel, including its tackle, apparel, furniture, and stores may be forfeited and the cargo of halibut of every such vessel shall be forfeited; and.

[3] Printed in this JOURNAL, Supplement, Vol. 91 (1925), p. 120.

upon a third or subsequent violation of the provisions of Section 3 of this Act, every such vessel, including its tackle, apparel, furniture, cargo, and stores shall be forfeited.

(c) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act: *Provided*, That except as provided in Section 5 hereof all rights, powers, and duties conferred or imposed by this Act upon any officer or employee of the Treasury Department shall, for the purposes of this Act, be exercised or performed by the Secretary of Commerce or by such persons as he may designate.

SEC. 7. Any person violating Section 4 of this Act shall be subject to a penalty of $50 for each such violation. The Secretary of Commerce is authorized and empowered to mitigate or remit any such penalty in the manner prescribed by law for the mitigation or remission of penalties for violation of the navigation laws.

SEC. 8. None of the prohibitions contained in this Act shall apply to the Commission or its agents when engaged in any scientific investigation.

SEC. 9. The Secretary of the Treasury and the Secretary of Commerce are authorized to make such joint rules and regulations as may be necessary to carry out the provisions of this Act.

SEC. 10. This Act shall take effect on the date of exchange of ratifications of the Convention signed by the United States of America and Canada, on January 29, 1937, for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, unless such date shall be prior to the date of approval of this Act in which case it shall take effect immediately.

UNITED STATES

JOINT RESOLUTION TO PROTECT FOREIGN DIPLOMATIC AND CONSULAR OFFICERS AND THE BUILDINGS AND PREMISES OCCUPIED BY THEM IN THE DISTRICT OF COLUMBIA[1]

Approved February 15, 1938

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful to display any flag, banner, placard, or device designed or adapted to intimidate, coerce, or bring into public odium any foreign government, party, or organization, or any officer or officers thereof, or to bring into public disrepute political, social, or economic acts, views, or purposes of any foreign government, party, or organization, or to intimidate, coerce, harass, or bring into public disrepute

[1] Public Resolution No. 79, 75th Cong., Chap. 29, 3d Sess. [S. J. Res. 191].

any officer or officers or diplomatic or consular representatives of any foreign government, or to interfere with the free and safe pursuit of the duties of any diplomatic or consular representatives of any foreign government, within five hundred feet of any building or premises within the District of Columbia used or occupied by any foreign government or its representative or representatives as an embassy, legation, consulate, or for other official purposes, except by, and in accordance with, a permit issued by the superintendent of police of the said District; or to congregate within five hundred feet of any such building or premises, and refuse to disperse after having been ordered so to do by the police authorities of the said District.

SEC. 2. The police court of the District of Columbia shall have jurisdiction of offenses committed in violation of this joint resolution; and any person convicted of violating any of the provisions of this joint resolution shall be punished by a fine not exceeding $100 or by imprisonment not exceeding sixty days, or both: *Provided, however*, That nothing contained in this joint resolution shall be construed to prohibit picketing, as a result of bona-fide labor disputes regarding the alteration, repair, or construction of either buildings or premises occupied, for business purposes, wholly or in part, by representatives of foreign governments.

STATUS OF THE TREATIES AND CONVENTIONS

SIGNED AT

THE INTERNATIONAL CONFERENCES OF AMERICAN STATES AND AT OTHER PAN AMERICAN CONFERENCES

Compiled by the Pan American Union and revised to April 1, 1938

FIRST CONFERENCE (Washington, 1889–90)

No Treaties or Conventions signed.

SECOND CONFERENCE (México, 1901–02)

1. Pecuniary Claims (In force 5 years)
2. Extradition
3. Practice of Learned Professions
4. Formation of Codes of International Law
5. Protection of Literary and Artistic Copyrights
6. Exchange of Publications
7. Patents, Industrial Drawings and Models and Trade Marks
8. Rights of Aliens
9. Obligatory Arbitration

THIRD CONFERENCE (Rio de Janeiro, 1906)

10. Status of Naturalized Citizens
11. Pecuniary Claims (Expired December 31, 1912)
12. Patents, Trade Marks, Literary and Artistic Property
13. International Law (Codification)

FOURTH CONFERENCE (Buenos Aires, 1910)

14. Patents
15. Trade Marks
16. Literary and Artistic Copyrights
17. Pecuniary Claims

FIFTH CONFERENCE (Santiago, 1923)

18. Prevention of Conflicts (Gondra Treaty)
19. Publicity of Customs Documents
20. Trade Marks and Commercial Names
21. Nomenclature for the Classification of Merchandise

SIXTH CONFERENCE (Habana, 1928)

22. Status of Aliens
23. Asylum
24. Consular Agents
25. Diplomatic Officers
26. Maritime Neutrality
27. Rights and Duties of States in event of Civil Strife
28. Treaties
29. Commercial Aviation
30. Literary and Artistic Copyright
31. Private International Law
32. Pan American Union

SEVENTH CONFERENCE (Montevideo, 1933)

33. Nationality of Women
34. Nationality
35. Extradition
35A. Optional Clause annexed to the Convention on Extradition
36. Political Asylum
37. Revision of History Textbooks
38. Additional Protocol to the Conciliation Convention (1929)
39. Rights and Duties of States

CONFERENCE FOR THE MAINTENANCE OF PEACE (Buenos Aires, 1936)

40. Maintenance, Preservation and Reëstablishment of Peace
41. Protocol Relative to Non-Intervention
42. Prevention of Controversies
43. Good Offices and Mediation
44. Fulfillment of the Existing Treaties
45. Pan American Highway
46. Promotion of Inter-American Cultural Relations
47. Interchange of Publications
48. Artistic Exhibitions
49. Peaceful Orientation of Public Instruction
50. Facilities for Educational and Publicity Films

CONVENTIONS SIGNED AT OTHER PAN AMERICAN CONFERENCES

51. Inter-American Conciliation (Washington, 1929)
52. Inter-American Arbitration (Washington, 1929)
53. Progressive Arbitration—Protocol (Washington, 1929)
54. Anti-War Pact (Rio de Janeiro, 1933)
55. Trade Mark and Commercial Protection (Washington, 1929)
56. Registration of Trade Marks—Protocol (Washington, 1929)
57. Electrical Communications (Mexico, 1924)
58. Sanitary Code (Habana, 1924)
59. Regulation of Automotive Traffic (Washington, 1930)
60. Most-favored-nation clause in commercial treaties (Washington, 1934)[1]
61. Artistic Institutions and Historic Monuments—Roerich Pact (Washington, 1935)
62. Movable Property of Historic Value (Washington, 1935)
63. Declaration relative to Foreign Companies (Washington, 1936)
64. Repression of Smuggling (Buenos Aires, 1935)
65. Tourist Passport and Transit Passport for Vehicles (Buenos Aires, 1935)
66. Transit of Airplanes (Buenos Aires, 1935)
67. Pan American Commercial Committees (Buenos Aires, 1935)

[1] Signed by Belgium and Greece.

ARGENTINA	BOLIVIA	BRAZIL	COLOMBIA	COSTA RICA	CUBA	CHILE	DOMINICAN REI	ECUADOR	EL SALVADOR	GUATEMALA	HAITI	HONDURAS	MÉXICO	NICARAGUA	PANAMÁ	PARAGUAY	PERÚ	UNITED STATES	URUGUAY
	S	NS	Rd	Rd	NS	S	S	R	Rd	Rd	S	Rd	Rd	S	NS	S	Rd	Rd	S
	S	NS	S	Rd	NS	S	S	Rr	Rd	Rd	S	S	S	S	NS	S	S	S	S
	Rd	NS	S	Rd	NS	Rd	Rd	S	Rd	Rd	S	Rd	S	Rd	NS	S	Rd	S	S
	R	NS	S	S	NS	S	S	R	R	R	S	R	S	S	NS	S	S	S	S
	S	NS	S	Rd	NS	S	Rd	R	Rd	Rd	S	Rd	S	Rd	NS	S	S	Rd	S
	S	NS	Rd	Rd	Rd	S	S	R	Rd	Rd	S	Rd	Rd	Rd	NS	S	S	Rd	S
	S	NS	S	Rd	Rd	S	Rd	R	Rd	Rd	S	Rd	S	Rd	NS	S	S	NS	S
	Rd	NS	R	S	NS	S	S	R	Rd	Rd	NS	Rd	S	S	NS	S	S	NS	S
	S	NS	NS	NS	NS	NS	R	NS	Rd	Rd	NS	NS	Rd	NS	NS	S	R	NS	R
d	S	Rd	Rd	Rd	S	Rd	NS	Rd	Rd	D	NS	Rd	S	Rd	Rd	S	S	Rd	S
	S	S	Rd	Rd	Rd	Rd	S	Rd	Rd	Rd	NS	Rd	Rd	Rd	Rd	S	S	Rd	S
	S	Rd	S	Rd	S	Rd	S	Rd	Rd	Rd	NS	Rd	S	Rd	Rd	S	S	S	S
d	S	Rd	Rd	Rd	S	Rd	Rd	Rd	Rd	Rd	NS	Rd	Rd	Rd	Rd	Rd	Rd	Rd	Rd
	A	Rd	S	Rd	Rd	S	Rd	Rd	S	Rd	Rd	Rd	S	Rd	Rd	Rd	S	Rd	Rd
	A	Rd	S	D	Rd	S	Rd	Rd	S	D	Rd	D	S	D	Rd	Rd	Rd	Rd	Rd
	A	Rd	Rd	Rd	S	S	Rd	Rd	S	Rd	Rd	Rd	S	Rd	Rd	Rd	Rd	Rd	Rd
	A	Rd	S	Rd	S	S	Rd	Rd	S	Rd	S	Rd	S	Rd	Rd	Rd	S	Rd	Rd
	A	Rd	Rd	Rd	Rd	Rd	Rd	Rd	Rd	Rd	Rd	Rd	ARd	Rd	Rd	Rd	ARd	Rd	Rd
	NS	Rd	S	Rd	Rd	Rd	Rd	S	Rd	R	Rd	S	NS	S	Rd	Rd	NS	Rd	Rd
	NS	Rd	S	S	Rd	S	Rd	S	S	S	Rd	S	NS	S	S	Rd	NS	Rd	S
	NS	Rd	S	Rd	Rd	Rd	Rd	S	Rd	R	Rd	S	NS	S	Rd	Rd	NS	Rd	Rd
	S	Rd	Rd	Rd	S	Rd	Rd	Rd	S	Rd	Rd	S	Rdr	Rd	Rd	S	S	Rdr	Rd
	S	Rd	Rd	Rd	Rd	S	Rd	Rd	Rd	Rd	S	R	Rd	Rd	Rd	S	S	NS	Rd
	S	Rd	Rd	S	Rd	S	Rdr[2]	Rd	S	S	S	S	Rd	Rd	Rd	S	S	Rd	Rd
	S	Rd	Rd	Rd	Rd	Rdr	Rdr	Rd	S	S	S	S	Rd	Rd	Rd	S	S	S	Rd
	Rd	S	R	S	S	S	Rd	Rd	S	S	Rd	S	S	Rd	Rd	S	S	Rdr	S
	S	Rd	Rd	Rd	Rd	S	Rd	Rd	Rd	S	Rd	S	Rd	Rd	Rd	S	S	Rdr	Rd
	S	Rd	S	S	S	S	Rd	Rd	NS	S	Rd	S	S	Rd	Rd	S	S	S	S
	S	S	S	Rd	S	Rdr	Rdr	Rd	S	Rd	Rd	Rd	Rd	Rd	Rd	S	S	Rd	S
	S	S	S	Rd	S	S	S	Rd	S	Rd	S	S	S	Rd	Rd	S	S	S	S
	Rdr	Rdr	S	Rdr	Rd	Rdr	Rd	Rdr	Rdr	Rd	Rdr	Rd	S	Rd	Rd	S	Rd	NS	S
	S	Rd	S	Rd	Rd	Rd	Rd	Rd	S	Rd	Rd	S	Rd	Rd	Rd	S	S	Rd	Rd
	S	Rd	Rd	NS	S	Rd	S	Rd	S	Rd	S	Rdr	Rdr	R	S	S	S	Rd	S
IS	NS	ARdr	NS	NS	NS	Rd	NS	Rd	NS	NS	NS	Rdr	Rdr	NS	NS	NS	NS	NS	S

SYMBOLS

.: Adherence subject to ratification.
S: Signatory. *R:* Ratified. *D:* Denounced.
NS: Non-signatory. *r:* Reservations.
d: Ratification deposited.

[2] Reservations not accepted by the United States

	ARGENTINA	BOLIVIA	BRAZIL	COLOMBIA	COSTA RICA	CUBA	CHILE	DOMINICAN REP.	ECUADOR	EL SALVADOR	GUATEMALA	HAITI	HONDURAS	MÉXICO	NICARAGUA	PANAMÁ	PARAGUAY	PERÚ	UNITED STATES	URUGUAY	VENEZUELA
35.	S	NS	S	Rd	NS	S	Rdr	Rd	Rd	Rdr	Rd	S	Rdr	Rdr	R	S	S	S	Rdr	S	NS
35A.	S	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	S	NS
36.	S	NS	Rd	Rd	NS	S	Rd	Rd	S	Rd	Rd	S	Rd	Rd	R	S	S	S	NS	S	NS
37.	S	S	S	Rd	NS	S	S	Rd	Rd	S	Rd	S	Rd	Rd	R	S	S	S	NS	S	NS
38.	NS	NS	NS	NS	NS	NS	Rd	Rd	R	NS	ARd	R	R	Rd	R	A	NS	NS	Rd	S	NS
39.	S	NS	Rd	Rd	ARd	Rd	Rd	Rd	Rd	Rd	Rd	S	Rd	Rd	Rd	S	S	S	Rdr	S	S
40.	S	S	R	R	S	R	S	R	Rr	R	S	S	Rr	Rd	R	S	S	S	Rd	S	Rd
41.	S	S	R	R	S	R	S	R	Rr	R	S	S	R	Rd	R	S	S	S	Rd	S	Rd
42.	S	S	S	R	S	Rd	S	Rd	Rd	R	S	S	S	Rd	R	S	S	Sr	Rd	S	S
43.	S	S	R	R	S	Rd	S	Rd	Rd	R	S	S	S	Rd	R	S	S	S	Rd	S	S
44.	Sr	S	R	Rr	S	R	S	R	R	Rr	S	S	Rr	Rd	R	S	Sr	S	Rdr	S	S
45.	S	S	S	S	S	S	S	S	S	R	S	S	S	Rd	Rd	S	S	S	Rd	S	S
46.	S	S	R	S	S	S	S	Rd	S	S	S	S	S	S	R	S	S	S	Rd	S	S
47.	S	S	R	S	S	S	S	Rd	S	R	S	S	S	S	R	S	S	S	S	S	S
48.	S	S	R	S	S	S	S	Rd	S	R	S	S	S	Rd	R	S	S	S	Rd	S	S
49.	S	S	R	S	S	S	S	Rd	S	R	S	S	S	Rd	R	S	S	S	NS	S	S
50.	S	S	R	S	S	S	S	Rd	S	R	S	S	S	S	R	S	S	S	NS	S	S
51.	NS	S	Rd	R	S	Rd	Rd	Rd	Rd	Rd	Rd	Rd	Rd	Rd	Rd	Rd	S	Rd	Rd	Rd	Rd
52.	NS	S	Rd	Rr	S	Rd	Rdr	Rdr	Rdr[3]	Rdr	Rdr	Rd	Rdr	Rdr	Rd	Rd	S	Rd	Rdr	S	Rdr
53.	NS	S	S	S	S	R	Rd	Rd	Rd	Rd	Rd	Rd	Rd	Rd	Rd	S	S	S	S	S	Rd
54.	Rd	AR	Rd	ARdr	A	ARd	Rdr	ARd	ARdr	ARd	ARd	ARd	ARdr	Rd	ARd	ARd	S	ARd	ARdr	Rd	ARd
55.	NS	S	S	Rd	S	Rd	S	S	S	NS	Rd	Rd	Rd	S	Rd	Rd	S	Rd	Rd	S	S
56.	NS	S	S	S	S	Rd	NS	S	S	NS	NS	Rd	Rd	S	S	Rd	S	Rd	Rd	NS	S
57.	S	NS	S	S	S	S	NS	Rd	S	S	S	NS	NS	Rd	S	Rd	Rd	S	NS	S	NS
58.	R	ARd	Rd	Rd	Rd	Rd	Rd	Rd	ARd	Rd	Rd	Rd	Rd	Rd	AR	Rd	R	Rd	Rd	Rd	Rd
59.	S	S	S	S	S	NS	S	Rd	Rd	S	S	NS	Rd	Rd	S	S	S	Rd	S	S	S
60.				S		Rd					S				S	S			Rd		
61.	S	S	Rd	Rd	S	Rd	Rd	Rd	S	Rd	Rd	S	R	Rd	S	S	S	S	Rd	S	Rd
62.							Rdr		S	Rd	Rd				Rd	S				S	
63.							Sr		S	S					S			S			Rd
64.	S	S	S	S	S	S	S	S	Rd	S	S	S	S	S	S	S	S	S	S	Rd	S
65.	S	S	S	S	S	NS	S	S	S	S	S	S	S	S	S	S	S	S	NS	Rd	S
66.	S	S	Rd	S	S	S	Rdr	S	Rd	S	S	S	S	Rd	S	S	S	S	S	Rd	S
67.	S	S	S	S	S	S	S	Rd	S	S	S	S	S	S	S	S	S	S	S	Rd	S

SYMBOLS

A: Adherence subject to ratification.
S: Signatory. *R:* Ratified. *D:* Denounced.
NS: Non-signatory. • *d:* Ratification deposited.
r: Reservations.

[3] Abandons the first two reservations made when signing the treaty.

CANADA-UNITED STATES

CONVENTION CONCERNING INCOME TAXATION[1]

Signed at Washington, Dec. 30, 1936; ratifications exchanged Aug. 13, 1937

The Government of the United States of America and the Government of Canada, being desirous of concluding a reciprocal convention concerning rates of income tax imposed upon non-resident individuals and corporations, have agreed as follows:

ARTICLE I

The high contracting parties mutually agree that the income taxation imposed in the two states shall be subject to the following reciprocal provisions:

(a) The rate of income tax imposed by one of the contracting states, in respect of income derived from sources therein, upon individuals residing in the other state, who are not engaged in trade or business in the taxing state and have no office or place of business therein, shall not exceed five per centum for each taxable year, so long as an equivalent or lower rate of income taxation is imposed by the other state upon individuals residing in the former state who are not engaged in trade or business in such other state and do not have an office or place of business therein.

(b) The rate of income tax imposed by one of the contracting states, in respect of dividends derived from sources therein, upon non-resident foreign corporations organized under the laws of the other state, which are not engaged in trade or business in the taxing state and have no office or place of business therein, shall not exceed five per centum for each taxable year, so long as an equivalent or lower rate of income taxation on dividends is imposed by the other state upon corporations organized under the laws of the former state which are not engaged in trade or business in such other state and do not have an office or place of business therein.

(c) Either state shall be at liberty to increase the rate of taxation prescribed by paragraphs (a) and (b) of this article, and in such case the other state shall be released from the requirements of the said paragraphs (a) and (b).

(d) Effect shall be given to the foregoing provisions by both states as and from the first day of January, nineteen hundred and thirty-six.

ARTICLE II

The provisions of this convention shall not apply to citizens of the United States of America domiciled or resident in Canada.

ARTICLE III

This convention shall be ratified and shall take effect immediately upon the exchange of ratifications which shall take place at Washington as soon as possible.

[1] U. S. Treaty Series, No. 920.

Signed, in duplicate, at Washington by the duly authorized representatives of the United States of America and Canada, this thirtieth day of December, in the year of our Lord, one thousand nine hundred and thirty-six.

For the United States of America:
[SEAL] R. WALTON MOORE
Acting Secretary of State

For Canada:
[SEAL] HERBERT M. MARLER
Envoy Extraordinary and Minister Plenipotentiary

GREECE-UNITED STATES

TREATY OF ESTABLISHMENT[1]

Signed at Athens, Nov. 21, 1936; ratifications exchanged Oct. 22, 1937

The United States of America and the Kingdom of Greece, being desirous of prescribing the conditions under which the nationals, corporations and associations of each country may settle and carry on business in the territory of the other country have decided to conclude a treaty for that purpose and have appointed their plenipotentiaries;

The President of the United States of America His Excellency Mr. Lincoln MacVeagh, Envoy Extraordinary and Minister Plenipotentiary at Athens;

His Majesty the King of the Hellenes His Excellency Mr. Nicolas Mavroudis, Permanent Under Secretary of State for Foreign Affairs; who, having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following provisions:

ARTICLE I

The nationals, limited liability and other corporations and associations of the United States of America and Greece respectively, shall receive in the territories of the other country treatment with respect to entry, establishment and residence which shall be, in all respects, no less favorable than the treatment which is or shall be accorded to nationals, corporations or associations of the most favored third country.

Nothing in this treaty shall be construed to affect existing statutes or regulations of either of the high contracting parties in relation to the immigration of aliens or the right of either party to enact such statutes.

ARTICLE II

The present treaty shall be ratified, and the ratifications thereof shall be exchanged at Athens as soon as possible.

[1] U. S. Treaty Series, No. 930.

It shall take effect on the day of the exchange of ratifications and shall remain in force for three years. After this date it shall remain in force until the expiration of twelve months from the day on which notice of its termination shall have been given by either high contracting party to the other party.

In witness whereof, the respective plenipotentiaries have signed the present treaty and have affixed their seals thereto.

Done in duplicate in the English and Greek languages, both authentic, at Athens this 21st day of November one thousand nine hundred and thirty-six.

[SEAL] LINCOLN MACVEAGH
[SEAL] N. MAVROUDIS

UNITED STATES

AN ACT

TO ESTABLISH A COMMISSION FOR THE SETTLEMENT OF THE SPECIAL CLAIMS COMPREHENDED WITHIN THE TERMS OF THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES CONCLUDED APRIL 24, 1934 [1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established a commission to be known as the "Special Mexican Claims Commission" (hereinafter referred to as the "Commission") which shall be composed of three commissioners, learned in the law, to be appointed by the President. Such Commission shall have jurisdiction to hear and determine, as hereinafter provided, conformable to the terms of the Convention of September 10, 1923,[2] and justice and equity, all claims against the Republic of Mexico, notices of which were filed with the Special Claims Commission, United States and Mexico, established by said Convention of September 10, 1923, in which the said Commission failed to award compensation, except such claims as may be found by the Committee provided for in the Special Claims Convention of April 24, 1934,[3] to be general claims and recognized as such by the General Claims Commission. For the purpose of this Act, claims which were brought to the attention of the American agency charged with the prosecution of claims before the aforesaid Commission, prior to the expiration of the periods specified in the Convention of September 10, 1923, for the filing of claims, but which, because of error or inadvertence, were not filed with or brought to the attention of the Commission within the said periods, shall be deemed to have been filed with the Commission within such periods.

(b) The President shall designate one of such commissioners as chairman of the Commission. Not more than two of such commissioners shall be members of the same political party. Each commissioner shall be a citizen of

[1] Public No. 30, 74th Congress.
[2] Printed in this JOURNAL, Supp., Vol. 18 (1924), p. 143.
[3] Printed, *ibid.*, Vol. 30 (1936), p. 106.

the United States, shall hold office until the functions of the Commission are terminated, and shall receive a salary at the rate of $7,500 a year. Any vacancy that may occur in the membership of the Commission shall be filled in the same manner as in the case of an original appointment. Two members of the Commission shall constitute a quorum for the transaction of its business.

SEC. 2. The Commission shall have a secretary, and such additional legal, clerical, and technical assistants as may be approved and appointed by the Secretary of State, and at the rates of compensation fixed by him.

SEC. 3. (a) Before taking up his duties, each commissioner shall make and subscribe a solemn oath or declaration that he will carefully and impartially examine and decide all claims according to the best of his judgment and in accordance with the evidence and the applicable principles of justice and equity, and the terms of the said Convention of September 10, 1923. All decisions by the Commission, which shall be by majority vote, shall constitute a full and final disposition of the cases decided. Such decisions shall be based upon the present records in the cases and such additional evidence and written legal contentions as may be presented within such period as may be prescribed therefor by the Commission.

(b) The Commission shall have authority, in its discretion, to make independent investigations of cases. For the purpose of all investigations which, in the opinion of the Commission, are necessary and proper for carrying out the provisions of this Act, each commissioner is empowered to administer oaths and affirmations, subpena witnesses, take evidence, and require the production of books, papers, or other documents which the commissioner or the Commission deems relevant to the inquiry.

(c) Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. In case of disobedience to a subpena the Commission may invoke the aid of any district or territorial court of the United States or the Supreme Court of the District of Columbia in requiring the attendance and testimony of witnesses and the production of documentary evidence, and the court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Commission, or to produce documentary evidence if so ordered or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) For the purpose of assisting the Commission in carrying out the provisions of this Act, the heads of the various departments and independent agencies and establishments of the Government are hereby directed to cooperate with the Commission and to place at its disposal such information as the Commission may from time to time request.

SEC. 4. If, after all claims have been passed upon and all awards have

been entered, the Commission shall find that the total amount of such awards is greater than the amount that the Government of Mexico has agreed to pay to the Government of the United States in satisfaction of the claims, less the expenses of the Commission, it shall reduce the awards on a percentage basis to such amount, and shall enter final awards in such reduced amounts.

SEC. 5. The said Commission shall perform its duties in the city of Washington, beginning within fifteen days after its appointment. It shall, as soon as practicable, make all needful rules and regulations not contravening the laws of the United States, or the provisions of this Act, for regulating the mode of procedure by and before it and for carrying into full and complete effect the provisions of this Act; it shall also, as soon as practicable, notify all claimants of record of the establishment of the Commission and of the rules of procedure adopted by it for the adjudication of the claims, including the time allowed for the filing of additional evidence and written legal contentions.

SEC. 6. The Commission shall complete its work within two years from the date on which it undertakes the performance of its duties, at which time all powers, rights, and duties conferred by this Act upon the Commission shall terminate.

SEC. 7. The Commission shall be allowed the necessary actual expenses of office rent, furniture, stationery, books, printing and binding, and other necessary incidental expenses, to be certified as necessary by the Commission and approved by the Secretary of State.

SEC. 8. The Commission shall, at the time of entering an award on any claim, allow counsel or attorneys employed by the claimant or claimants, out of the amount awarded, such fees as it shall determine to be just and reasonable for the services rendered the claimant or claimants in prosecuting such claim, which allowance shall be entered as a part of said award: *Provided, however,* That the Commission shall determine just and reasonable fees, where there is a contract or agreement for services in connection with the proceedings before the Commission and with the preparations therefor, only upon the written request of the claimant or claimants, or of the counsel or attorneys, made to the Commission within ninety days after notice of the entry of an award and notice of the provisions of this section shall have been mailed by the Commission to the claimant or claimants; and payment shall be made by the Secretary of the Treasury to the person or persons to whom such allowance shall be made in the same manner as payments are made to claimants under Section 9 of this Act, which shall constitute payment in full to the counsel or attorneys for prosecuting such claim; and whenever such allowance shall be made all other liens upon, or assignments, sales, or transfers of the claim or the award thereon, whether absolute or conditional, for services rendered or to be rendered by counsel or attorneys in the preparation or presentation of any claim or part or parcel thereof, shall be absolutely null and void and of no effect.

SEC. 9. The said Commission shall, upon the completion of its work, sub-

mit a report to the Secretary of State, attaching thereto the following documents in duplicate: (a) a statement of the expenses of the Commission; (b) a list of all claims rejected; (c) a list of all claims allowed in whole or in part, together with the amount of each claim and the amount awarded by the Commission; and (d) its decisions in writing showing the reasons for the allowance or disallowance of the respective claims. Certified copies of lists (a) and (c) shall be transmitted by the Secretary of State to the Secretary of the Treasury, who shall, after making the deduction provided for in Section 11 hereof, distribute in ratable proportions, among the persons in whose favor awards shall have been made, or their assignees, heirs, executors, or administrators of record, according to the proportions which their respective awards shall bear to the whole amount then available for distribution, such moneys as may have been received into the Treasury in virtue of the Convention of April 24, 1934. The Secretary of the Treasury shall follow like procedure with reference to any amounts that may thereafter be received from the Government of Mexico under the Convention of April 24, 1934.

SEC. 10. As soon as the adjudication of the claims shall have been completed, the records, books, documents, and all other papers in the possession of the Commission, or members of its staff, shall be deposited with the Department of State.

SEC. 11. For the expenses of the Commission in carrying out the duties as aforesaid, the sum of $90,000, or so much thereof as may be necessary, is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, including personal services in the District of Columbia, or elsewhere, without regard to the provisions of any statute relating to employment, rent in the District of Columbia, furniture, office supplies, and equipment, including law books and books of reference, stenographic reporting and translating services, without regard to Section 3709 of the Revised Statutes; traveling expenses; printing and binding; and such other necessary expenses as may be authorized by the Secretary of State: *Provided,* That any expenditures from the amount herein authorized to be appropriated shall become a first charge upon any moneys received from the Government of Mexico in settlement of these claims, and the amount of such expenditures shall be deducted from the first payment by the Government of Mexico and deposited in the Treasury of the United States as miscellaneous receipts.

SEC. 12. After a fee has been fixed under Section 8, any person accepting any consideration (whether or not under a contract or agreement entered into prior or subsequent to the enactment of this Act) the aggregate value of which (when added to any consideration previously received) is in excess of the amount so fixed, for services in connection with the proceedings before the Commission, or any preparations therefor, shall, upon conviction thereof, be punished by a fine of not more than four times the aggregate value of the consideration accepted by such person therefor.

Approved, April 10, 1935.

JOINT RESOLUTION

RELATIVE TO DETERMINATION AND PAYMENT OF CERTAIN CLAIMS AGAINST THE GOVERNMENT OF MEXICO [1]

Whereas the Act entitled "An Act to establish a commission for the settlement of the special claims comprehended within the terms of the convention between the United States of America and the United Mexican States concluded April 24, 1934," approved April 10, 1935 (49 Stat. 149),[2] provides for the establishment of the Special Mexican Claims Commission and confers upon that Commission jurisdiction to hear and determine all claims against the Republic of Mexico, notices of which were filed with the Special Claims Commission, United States and Mexico, established by a Convention of September 10, 1923,[3] in which the said Commission failed to award compensation, except such claims as may be found by the committee provided for in the Special Claims Convention of April 24, 1934,[4] to be general claims and recognized as such by the General Claims Commission; and

Whereas the said Special Claims Convention of April 24, 1934, provides that the jurisdiction in and validity of the claims found by the said committee to be general claims shall be determined in each case when examined and adjudicated by the Commissioners or Umpire in accordance with the provisions of the General Claims Convention of September 8, 1923,[5] and the protocol of April 24, 1934, or the Special Claims Convention of September 10, 1923, and the protocol of June 18, 1932, in the event it shall be found by the Commissioners or Umpire to have been improperly eliminated from the special claims settlement; and

Whereas certain claims filed with the said Special Claims Commission, United States and Mexico, established by the said Convention of September 10, 1923, were found by the said committee to be general claims but have not yet been the subject of any determination by the said General Claims Commission; and

Whereas the said Special Mexican Claims Commission, established in pursuance of the said Act approved April 10, 1935, expires by the terms of the said Act on August 31, 1937; and

Whereas, by the terms of the protocol of April 24, 1934, between the United States of America and the United Mexican States, the said General Claims Commission expires on October 24, 1937, and the two Governments have undertaken, upon the basis of the joint report of the members of the said Commission, to conclude a convention for the final disposition of the claims pending before the said Commission, the said convention to take either the form of an agreement for an en-bloc settlement of the said claims or the form of an agreement for the disposition of the claims upon their individual merits by reference to an umpire; and

[1] Public Resolution No. 70, 75th Cong., Ch. 758, 1st Sess. [2] Printed, *supra*, p. 107.
[3] Printed in this JOURNAL, Supp., Vol. 18 (1924), p. 143.
[4] Printed, *ibid.*, Vol. 30 (1936), p. 106. [5] Printed, *ibid.*, Vol. 18 (1924), p. 147.

Whereas the committee provided for in the Special Claims Convention of April 24, 1934, found that the amount to be paid by the Government of Mexico in settlement of the special claims comprehended in that Convention was $5,448,020.14, it being understood that the sum thus determined was susceptible of increase after express decision of the General Claims Commission in case the said Commission might decide to be within the jurisdiction of the Special Commission any one or more of the claims which the said committee found to be general claims; and

Whereas the said Special Mexican Claims Commission, in the event that the total amount of the awards made by it upon all claims is greater than the amount which the Government of Mexico has agreed to pay to the Government of the United States in satisfaction of the claims, is required by the said Act approved April 10, 1935, to reduce the awards on a percentage basis to such amount; and

Whereas, in the circumstances set forth, it is not now possible to ascertain which, if any, of the claims found by the said committee to be general claims will be found by the said General Claims Commission to be special claims, nor what will be the amount of the total en-bloc settlement provided for in the said Special Claims Convention of April 24, 1934; and

Whereas payments on awards of the said Special Mexican Claims Commission from funds paid to the Government of the United States by the Government of Mexico under the Special Claims Convention of April 24, 1934, should not, in justice to the beneficiaries, be deferred until the question of the jurisdiction of the claims now pending before the General Claims Commission, by virtue of the classification of such claims as general claims by the joint committee, shall have been finally determined in the manner provided for in the said Convention of April 24, 1934, or in the said protocol of the same date: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the jurisdiction of the Special Mexican Claims Commission established in pursuance of the Act approved April 10, 1935 (49 Stat. 149), shall not be deemed to include any of the claims found by the committee provided for in the Special Claims Convention of April 24, 1934, to be general claims.

SEC. 2. That for the purposes of the reduction of awards on a percentage basis as provided for in Section 4 of the Act approved April 10, 1935 (49 Stat. 149), the amount which the Government of Mexico has agreed to pay to the Government of the United States in satisfaction of the claims shall, subject to the provision in Section 3 hereof, be deemed to be the sum of $5,448,020.14, set forth in the report of the said committee provided for in the said Convention of April 24, 1934.

SEC. 3. That, in the event of the reclassification as special claims of any of the claims found by the said committee to be general claims, the claims so reclassified shall be passed upon by said Special Mexican Claims Commission

during its existence and thereafter by a Commission to be established in conformity with the said Act of April 10, 1935, and the total amount payable by the Government of Mexico to the Government of the United States on account of the claims so reclassified, together with interest on all deferred payments under the Special Claims Convention of April 24, 1934, shall be added to the sum of $5,448,020.14 set forth in the report of the said committee. The total amount awarded by the Commission so established upon the claims so reclassified shall be added to the total amount of the original awards made by the Special Mexican Claims Commission, and any necessary readjustment of the awards of the Special Mexican Claims Commission and those that may be made by the Commission to be established pursuant to this section shall be made by the Secretary of the Treasury on the basis prescribed by Section 4 of the Act approved April 10, 1935.

SEC. 4. Upon the certification to the Secretary of the Treasury of the awards of the Special Mexican Claims Commission, he shall proceed to make payments as provided for in Section 9 of the Act approved April 10, 1935; and upon the certification to the Secretary of the Treasury of awards upon any claims reclassified as special claims he shall, after making the readjustments provided for in Section 3 of this resolution, accord priority of payment on such awards until the beneficiaries thereof shall have been placed upon an equal percentage basis as to payments with the beneficiaries of awards of the Special Mexican Claims Commission.

SEC. 5. Section 6 of the Act approved April 10, 1935, creating the Special Mexican Claims Commission, and for other purposes, is amended to read as follows:

"SEC. 6. The Commission shall complete its work within three years from the date on which it undertakes the performance of its duties, at which time all powers, rights, and duties conferred by this Act upon the Commission shall terminate. If the President finds the Commission has completed its work prior to such expiration date, he may terminate all such powers, rights, and duties of the Commission by Executive order."

Approved, August 25, 1937.

INTERNATIONAL CONVENTION

CONCERNING THE USE OF BROADCASTING IN THE CAUSE OF PEACE[1]

Signed at Geneva, September 23, 1936; in force April 2, 1938

Ratified by Brazil, Great Britain and Northern Ireland, Denmark, France, India, Luxemburg, New Zealand; accessions by Australia, Burma, Southern Rhodesia, Union of South Africa, Guatemala.

Albania, the Argentine Republic, Austria, Belgium, the United States of Brazil, the United Kingdom of Great Britain and Northern Ireland, Chile,

[1] British Parliamentary Papers, Cmd. 5505, Misc. No. 6 (1937).

Colombia, Denmark, the Dominican Republic, Egypt, Spain, Estonia, France, Greece, India, Lithuania, Luxemburg, the United States of Mexico, Norway, New Zealand, The Netherlands, Rumania, Switzerland, Czechoslovakia, Turkey, the Union of Soviet Socialist Republics and Uruguay,

Having recognized the need for preventing, by means of rules established by common agreement, broadcasting from being used in a manner prejudicial to good international understanding;

Prompted, moreover, by the desire to utilize, by the application of these rules, the possibilities offered by this medium of intercommunication for promoting better mutual understanding between peoples:

Have decided to conclude a convention for this purpose, and have appointed as their plenipotentiaries:

ALBANIA: M. Thomas Luarassi, Secretary of the Permanent Delegation to the League of Nations.

ARGENTINE REPUBLIC: M. Carlos A. Pardo, Commercial Adviser to the Legation at Berne.

AUSTRIA: His Excellency Dr. Marcus Leitmaier, Envoy Extraordinary and Minister Plenipotentiary.

BELGIUM: M. Maurice Bourquin, Professor at the University of Geneva.

THE UNITED STATES OF BRAZIL: M. Elyseu Montarroyos, Delegate to the International Institute of Intellectual Co-operation.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND: Viscount Cranborne, M.P., Under-Secretary of State for Foreign Affairs; Mr. Frederick William Phillips, Director of Telecommunications, General Post Office; Mr. Henry George Gordon Welch, Principal, General Post Office.

CHILE: M. Enrique Gajardo V., Head of the Permanent Office to the League of Nations.

COLOMBIA: His Excellency Dr. Gabriel Turbay, Permanent Delegate to the League of Nations, Envoy Extraordinary and Minister Plenipotentiary; His Excellency Dr. Carlos Lozano y Lozano, Envoy Extraordinary and Minister Plenipotentiary to the President of the Spanish Republic.

DENMARK: M. Holger Oluf Quistgaard Bech, First Secretary of the Permanent Delegation to the League of Nations.

THE DOMINICAN REPUBLIC: M. Charles Ackermann, Consul-General at Geneva.

EGYPT: M. Abd-el-Fattah Assal, Acting Chargé d'Affaires at Berne.

SPAIN: M. José Rivas y Gonzalez, Head of the Radio-Communications Section of the Ministry of Communications; M. Manuel Marquez Mira, Professor at the Official School of Telecommunication.

ESTONIA: M. Johannes Kodar, Permanent Delegate *a.i.* to the League of Nations.

FRANCE: M. Marcel Pellenc, Director-General of Broadcasting of the Ministry of Posts, Telegraphs and Telephones; M. Yves Chataigneau, Chief of Section at the Ministry for Foreign Affairs.

GREECE: His Excellency M. Raoul Bibica-Rosetti, Permanent Delegate to the League of Nations, Minister Plenipotentiary.

INDIA: Sir Denys de Saumarez Bray, K.C.S.I., K.C.I.E., C.B.E.

LITHUANIA: M. Juozas Urbšys, Minister Plenipotentiary, Political Director in the Ministry for Foreign Affairs.

LUXEMBURG: His Excellency M. Emile Reuter, Honorary Minister of State, President of the Chamber of Deputies.

UNITED STATES OF MEXICO: His Excellency M. Narciso Bassols, Ambassador, Envoy Extraordinary and Minister Plenipotentiary accredited to the Court of St. James; His Excellency M. Primo Villa Michel, Permanent Delegate to the League of Nations, Envoy Extraordinary and Minister Plenipotentiary.

NORWAY: M. Einar Maseng, Permanent Delegate to the League of Nations.

NEW ZEALAND: Mr. William Joseph Jordan, High Commissioner in London; Sir Christopher James Parr, G.C.M.G.

THE NETHERLANDS: His Excellency Ridder C. van Rappard, Permanent Representative to the League of Nations, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council.

RUMANIA: M. Tudor A. Tănăsesco, Engineer, attached to the Ministry of Communications, Lecturer at the Bucharest Polytechnic School.

SWITZERLAND: M. Camille Gorgé, Counsellor of Legation, Chief of the League of Nations Section at the Federal Political Department; M. Jakob Buser, Chief of Division at the General Directorate of Posts and Telegraphs.

CZECHOSLOVAKIA: His Excellency M. Rudolf Künzl-Jizerský, Permanent Delegate to the League of Nations, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council.

TURKEY: His Excellency M. Necmeddin Sadak, Permanent Delegate to the League of Nations, Minister Plenipotentiary.

UNION OF SOVIET SOCIALIST REPUBLICS: M. Edouard Hoerschelmann, Secretary-General of the People's Commissariat for Foreign Affairs.

URUGUAY: His Excellency M. Victor Benavides, Engineer, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council.

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1

The high contracting parties mutually undertake to prohibit and, if occasion arises, to stop without delay the broadcasting within their respective territories of any transmission which to the detriment of good international understanding is of such a character as to incite the population of any territory to acts incompatible with the internal order or the security of a territory of a high contracting party.

ARTICLE 2

The high contracting parties mutually undertake to ensure that transmissions from stations within their respective territories shall not constitute an incitement either to war against another high contracting party or to acts likely to lead thereto.

ARTICLE 3

The high contracting parties mutually undertake to prohibit and, if occasion arises, to stop without delay within their respective territories any transmission likely to harm good international understanding by statements the incorrectness of which is or ought to be known to the persons responsible for the broadcast.

They further mutually undertake to ensure that any transmission likely to harm good international understanding by incorrect statements shall be rectified at the earliest possible moment by the most effective means, even if the incorrectness has become apparent only after the broadcast has taken place.

ARTICLE 4

The high contracting parties mutually undertake to ensure, especially in time of crisis, that stations within their respective territories shall broadcast information concerning international relations, the accuracy of which shall have been verified—and that by all means within their power—by the persons responsible for broadcasting the information.

ARTICLE 5

Each of the high contracting parties undertakes to place at the disposal of the other high contracting parties, should they so request, any information that, in his opinion, is of such a character as to facilitate the broadcasting, by the various broadcasting services, of items calculated to promote a better knowledge of the civilization and the conditions of life of his own country as well as of the essential features of the development of his relations with other peoples and of his contribution to the organization of peace.

ARTICLE 6

In order to give full effect to the obligations assumed under the preceding articles, the high contracting parties mutually undertake to issue, for the guidance of governmental broadcasting services, appropriate instructions and regulations, and to secure their application by these services.

With the same end in view, the high contracting parties mutually undertake to include appropriate clauses for the guidance of any autonomous broadcasting organizations, either in the constitutive charter of a national institution, or in the conditions imposed upon a concessionary company, or in the rules applicable to other private concerns, and to take the necessary measures to ensure the application of these clauses.

ARTICLE 7

Should a dispute arise between the high contracting parties regarding the interpretation or application of the present convention, for which it has been found impossible to arrive at a satisfactory settlement through the diplomatic channel, it shall be settled in conformity with the provisions in force between the parties concerning the settlement of international disputes.

In the absence of any such provisions between the parties to the dispute, the said parties shall submit it to arbitration or to judicial settlement. Failing agreement concerning the choice of another tribunal, they shall submit the dispute, at the request of one of them, to the Permanent Court of International Justice, provided they are all parties to the Protocol of the 16th December, 1920, regarding the Statute of the Court; or, if they are not all parties to the above protocol, they shall submit the dispute to an arbitral tribunal, constituted in conformity with The Hague Convention of the 18th October, 1907, for the Pacific Settlement of International Disputes.

Before having recourse to the procedures specified in paragraphs 1 and 2 above, the high contracting parties may, by common consent, appeal to the good offices of the International Committee on Intellectual Coöperation, which would be in a position to constitute a special committee for this purpose.

ARTICLE 8

The present convention, of which the French and English texts are both authentic, shall bear this day's date, and shall be open for signature until the 1st May, 1937, on behalf of any member of the League of Nations, or any non-member state represented at the conference which drew up the present convention, or any non-member state to which the Council of the League of Nations shall have communicated a copy of the said convention for that purpose.

ARTICLE 9

The present convention shall be ratified. The instruments of ratification shall be sent to the Secretary-General of the League of Nations, who shall notify the deposit thereof to all the members of the League and to the non-member states referred to in the preceding article.

ARTICLE 10

After the 1st May, 1937, any member of the League of Nations and any non-member state referred to in Article 8 may accede to the present convention.

The notifications of accession shall be sent to the Secretary-General of the League of Nations, who shall notify the deposit thereof to all the members of the League and to all the non-member states referred to in the aforesaid article.

ARTICLE 11

The present convention shall be registered by the Secretary-General of the League of Nations, in conformity with the provisions of Article 18 of the Covenant, sixty days after the receipt by him of the sixth ratification or accession.

The convention shall enter into force on the day of such registration.

ARTICLE 12

Every ratification or accession effected after the entry into force of the convention shall take effect sixty days after the receipt thereof by the Secretary-General of the League of Nations.

ARTICLE 13

The present convention may be denounced by a notification addressed to the Secretary-General of the League of Nations. Such notification shall take effect one year after its receipt.

The Secretary-General shall notify the receipt of any such denunciation to all members of the League and to the non-member states referred to in Article 8.

If, as the result of denunciations, the number of high contracting parties should fall below six, the present convention shall cease to apply.

ARTICLE 14

Any high contracting party may, on signing, ratifying or acceding to the present convention, or at any subsequent date, by a written document addressed to the Secretary-General of the League of Nations, declare that the present convention shall apply to all or any of his colonies, protectorates, overseas territories, or territories placed under his suzerainty or mandate. The present convention shall apply to the territory or territories specified in the declaration sixty days after its receipt. Failing such a declaration, the convention shall not apply to any such territory.

Any high contracting party may at any subsequent date, by a notification to the Secretary-General of the League of Nations, declare that the present convention shall cease to apply to any or all of his colonies, protectorates, overseas territories, or territories placed under his suzerainty or mandate. The convention shall cease to apply to the territory or territories specified in the notification one year after its receipt.

The Secretary-General shall communicate to all members of the League and to the non-member states referred to in Article 8 all declarations received under the present article.

ARTICLE 15

A request for the revision of the present convention may be made at any time by any high contracting party in the form of a notification addressed

to the Secretary-General of the League of Nations. Such notification shall be communicated by the Secretary-General to the other high contracting parties. Should not less than one-third of them associate themselves with such request, the high contracting parties agree to meet with a view to the revision of the convention.

In that event, it shall be for the Secretary-General of the League of Nations to propose to the Council or Assembly of the League of Nations the convening of a revision conference.

Done at Geneva, the twenty-third day of September, one thousand nine hundred and thirty-six, in a single copy, which shall remain deposited in the archives of the Secretariat of the League of Nations and of which a certified true copy shall be delivered to all the members of the League and to the non-member states referred to in Article 8.

Albania
Ad referendum:
TH. LUARASSI

Austria
M. LEITMAIER

Argentine Republic
C. A. PARDO

Belgium
BOURQUIN

[*Translation*]: Under reservation of the declarations mentioned in the *procès-verbal* of the final meeting.

These declarations are worded as follows:

"The Delegation of Belgium declares its opinion that the right of a country to jam by its own means improper transmissions emanating from another country, in so far as such a right exists in conformity with the general provisions of international law and with the conventions in force, is in no way affected by the convention."

United States of Brazil
E. MONTARROYOS

Denmark
HOLGER BECH

United Kingdom of Great Britain and Northern Ireland
CRANBORNE
F. W. PHILLIPS
H. G. G. WELCH

Dominican Republic
CH. ACKERMANN

Chile
ENRIQUE J. GAJARDO V.

Egypt
F. ASSAL

Colombia
Ad referendum:
GABRIEL TURBAY
CARLOS LOZANO Y LOZANO

Spain
JOSÉ RIVAS Y GONZALEZ
MANUEL MARQUEZ

[*Translation*]: Under reservation of the declarations mentioned in the *procès-verbal* of the final meeting of the Conference.

This declaration is worded as follows:

"The Spanish Delegation declares that its Government reserves the right to put a stop by all possible means to propaganda liable adversely to affect internal order in Spain and involving a breach of the convention, in the event of the procedure proposed by the convention not permitting of immediate steps to put a stop to such breach."

Estonia
J. KÕDAR

France
M. PELLENC
YVES CHATAIGNEAU

Greece
Ad referendum:
RAOUL BIBICA-ROSETTI

India
DENYS BRAY

Lithuania
J. URBŠYS

Luxemburg
REUTER

United States of Mexico
N. BASSOLS
P. V. MICHEL

Norway
EINAR MASENG

New Zealand
W. J. JORDAN
C. J. PARR

The Netherlands
C. VAN RAPPARD

Rumania
T. TĂNĂSESCO

Switzerland
C. GORGÉ
DR. J. BUSER

Czechoslovakia
ROD. KÜNZL-JIZERSKÝ

Turkey
Ad referendum:
N. SADAK

Union of Soviet Socialist Republics
ED. HOERSCHELMANN

[*Translation*]: Under reservation of the declarations mentioned in the *procès-verbal* of the final meeting of the Conference.

These declarations are worded as follows:

"The Delegation of the Union of Soviet Socialist Republics declares that, pending the conclusion of the procedure contemplated in Article 7 of the convention, it considers that the right to apply reciprocal measures to a country carrying out improper transmissions against it, in so far as such a right exists under the general rules of international law and with the conventions in force, is in no way affected by the convention.

"The Delegation of the Union of Soviet Socialist Republics declares that its Government, while prepared to apply the principles of the convention on a basis of reciprocity to all the contracting states, is nevertheless of opinion that certain of the provisions of the convention presuppose the existence of diplomatic relations between the contracting parties, particularly in connection with the verification of information and the forms of procedure proposed for the settlement of disputes. Accordingly, the Government of the Union of Soviet Socialist Republics is of opinion that, in order to avoid the occurrence of differences or misunderstandings between the states parties to the convention which do not maintain diplomatic relations with one another, the convention should be regarded as not creating formal obligations between such states."

Uruguay
V. BENAVIDES

INTERNATIONAL CONVENTION

FOR THE UNIFICATION OF CERTAIN RULES RELATING TO BILLS OF LADING

Signed at Brussels, Aug. 25, 1924; in force June 2, 1931

[The text of this convention, accompanied by the Protocol of Signature, declaration of Great Britain, and note containing reservations of Japan, was printed in this JOURNAL, Supplement, Vol. 27 (1933), p. 18.

Ratifications have been deposited as follows:

June 2, 1930: Belgium (excluding Belgian Congo and Ruanda-Urundi), Great Britain and Northern Ireland, Hungary, Spain.

Oct. 26, 1936: Poland.

Jan. 4, 1937: France.

June 29, 1937: United States.

Aug. 4, 1937: Rumania.

The following states have acceded to the convention:

May 15, 1931: Monaco.

June 2, 1931: British possessions (excluding India and the Dominions). Ascension, St. Helena and Sarawak acceded Nov. 3, 1931.

Dec. 24, 1931: Portugal.]

RELATED PAPERS*

Proces-Verbal of Deposit of Ratifications

[Translation]

As the ratifications of the International Convention for the Unification of Certain Rules in Regard to Bills of Lading, signed at Brussels on August 25, 1924, as well as of the Protocol of Signature annexed thereto, must, under the terms of Article 11 of the convention, be deposited at Brussels, this Procès-Verbal was drawn up for that purpose at the Ministry of Foreign Affairs of Belgium.

There were presented for deposit on June 2, 1930:

The ratifications of His Majesty the King of the Belgians.

PAUL HYMANS.

The ratifications of His Majesty the King of the United Kingdom of Great Britain and Northern Ireland.

GRANVILLE.

The ratifications of His Majesty the King of Spain.

FRANCISCO G. DE AGUEIRA.

The ratifications of His Most Serene Highness the Regent of the Kingdom of Hungary.

JOSEPH KAIL.

* These papers, as well as the text of the convention in French and English, are published in U. S. Treaty Series. No. 931.

The date of June 2, 1930, will mark the beginning of the period of 1 year stipulated by article 14 of the convention for the latter to go into effect.

BRUSSELS, June 2, 1930.

The Minister of Foreign Affairs of Belgium,
PAUL HYMANS

[SEAL OF THE MINISTRY OF FOREIGN AFFAIRS]

Notification Effecting Deposit of Ratification of the United States of America

The American Chargé d'Affaires ad interim (Sussdorff) to the Belgian Minister for Foreign Affairs and Foreign Commerce (Spaak)

No. 965 EMBASSY OF THE UNITED STATES OF AMERICA,
Brussels, June 26, 1937.

EXCELLENCY:

Acting under instructions from my Government, I have the honor to inform Your Excellency that the United States of America has ratified the convention for the unification of certain rules relating to bills of lading for the carriage of goods by sea and a protocol of signature thereto, dated and opened for signature at Brussels on August 25, 1924, and signed on behalf of the United States of America at Brussels on June 23, 1925.

The convention is ratified by the United States of America with two understandings, to which the Senate made its advice and consent subject, namely:

> that notwithstanding the provisions of Article 4, Section 5, and the first paragraph of Article 9 of the convention, neither the carrier nor the ship shall in any event be or become liable within the jurisdiction of the United States of America for any loss or damage to or in connection with goods in an amount exceeding $500.00, lawful money of the United States of America, per package or unit unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading; and
>
> that should any conflict arise between the provisions of the convention and the provisions of the act of April 16, 1936, known as the Carriage of Goods by Sea Act, the provisions of said act shall prevail.

In accordance with the second paragraph of Article 11 of the convention, which provides that ratifications deposited subsequent to the signature of the procès-verbal relating to the first deposit of ratifications shall be made by means of a written notification addressed to Your Excellency's Government and accompanied by the instrument of ratification, I have the honor to transmit herewith the instrument of ratification of the United States of America, signed by the President on May 26, 1937.[1]

There are also enclosed for the information of Your Excellency's Government a copy of the "Carriage of Goods by Sea Act" of 1936,[2] and of a memo-

[1] *Post*, p. 123. [2] *Post*, p. 124.

randum prepared by my Government showing a comparison between the Act and the Convention.[3] Additional copies of the Act and the memorandum will be made available to Your Excellency at an early date for transmission to the other signatory Governments.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

LOUIS SUSSDORFF, JR.
Chargé d'Affaires a. i.

Enclosures:
1. Instrument of ratification
2. Carriage of Goods by Sea Act
3. Memorandum

His Excellency
Mr. PAUL H. SPAAK,
Minister for Foreign Affairs and Foreign Commerce.

[Enclosure 1]

[RATIFICATION OF THE UNITED STATES OF AMERICA]

FRANKLIN D. ROOSEVELT,

President of the United States of America,

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Know ye, That whereas a convention for the unification of certain rules relating to bills of lading for the carriage of goods by sea and a protocol of signature thereto, dated and opened for signature at Brussels on August 25, 1924, were signed on various dates thereafter by the respective plenipotentiaries of the United States of America, Germany, Belgium, Chile, Spain, Estonia, France, Great Britain and Northern Ireland, with a reservation, Hungary, Italy, Japan (the convention only), with reservations, Poland and the Free City of Danzig, Rumania and the Kingdom of the Serbs, Croats and Slovenes (Yugoslavia), certified copies of which convention and protocol are hereto annexed: [4]

And whereas, the Senate of the United States of America by their resolution of April 1 (legislative day March 13), 1935 (two-thirds of the Senators present concurring therein), did advise and consent to the ratification of the said convention and protocol of signature thereto, "with the understanding, to be made a part of such ratification, that, notwithstanding the provisions of Article 4, Section 5, and the first paragraph of Article 9 of the convention, neither the carrier not the ship shall in any event be or become liable within the jurisdiction of the United States of America for any loss or damage to or in connection with goods in an amount exceeding $500.00, lawful money of the United States of America, per package or unit unless the nature and value of such

[3] *Post*, p. 131.

[4] See note, p. 121, *ante*.

goods have been declared by the shipper before shipment and inserted in the bill of lading".

And whereas, the Senate of the United States of America by their resolution of May 6, 1937 (two-thirds of the Senators present concurring therein), did add to and make a part of their aforesaid resolution of April 1, 1935, the following understanding:

"That should any conflict arise between the provisions of the Convention and the provisions of the Act of April 16, 1936, known as the 'Carriage of Goods by Sea Act', the provisions of said Act shall prevail":

Now, therefore, be it known that I, Franklin D. Roosevelt, President of the United States of America, having seen and considered the said convention and protocol of signature, do hereby, in pursuance of the aforesaid advice and consent of the Senate, ratify and confirm the same and every article and clause thereof, subject to the two understandings hereinabove recited and made part of this ratification.

In testimony whereof, I have caused the Seal of the United States of America to be hereunto affixed.

Done at the city of Washington this twenty-sixth day of May in the year of our Lord one thousand nine hundred and thirty-seven, and [SEAL] of the Independence of the United States of America the one hundred and sixty-first.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

[Enclosure 2]

[CARRIAGE OF GOODS BY SEA ACT [5]]

AN ACT

RELATING TO THE CARRIAGE OF GOODS BY SEA

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every bill of lading or similar document of title which is evidence of a contract for the carriage of goods by sea to or from ports of the United States, in foreign trade, shall have effect subject to the provisions of this Act.

TITLE I

SECTION 1. When used in this Act—

(a) The term "carrier" includes the owner or the charterer who enters into a contract of carriage with a shipper.

(b) The term "contract of carriage" applies only to contracts of carriage covered by a bill of lading or any similar document of title, insofar as such

[5] Public No. 521, 74th Cong., 49 Stat. (Pt. 1) 1207.

document relates to the carriage of goods by sea, including any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same.

(c) The term "goods" includes goods, wares, merchandise, and articles of every kind whatsoever, except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried.

(d) The term "ship" means any vessel used for the carriage of goods by sea.

(e) The term "carriage of goods" covers the period from the time when the goods are loaded on to the time when they are discharged from the ship.

RISKS

SEC. 2. Subject to the provisions of section 6, under every contract of carriage of goods by sea, the carrier in relation to the loading, handling, stowage, carriage, custody, care, and discharge of such goods, shall be subject to the responsibilities and liabilities and entitled to the rights and immunities hereinafter set forth.

RESPONSIBILITIES AND LIABILITIES

SEC. 3. (1) The carrier shall be bound, before and at the beginning of the voyage, to exercise due diligence to—

(a) Make the ship seaworthy;

(b) Properly man, equip, and supply the ship;

(c) Make the holds, refrigerating and cooling chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage, and preservation.

(2) The carrier shall properly and carefully load, handle, stow, carry, keep, care for, and discharge the goods carried.

(3) After receiving the goods into his charge the carrier, or the master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things—

(a) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage.

(b) Either the number of packages or pieces, or the quantity or weight, as the case may be, as furnished in writing by the shipper.

(c) The apparent order and condition of the goods: *Provided,* That no carrier, master, or agent of the carrier, shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.

(4) Such a bill of lading shall be prima facie evidence of the receipt by the

carrier of the goods as therein described in accordance with paragraphs (3) (a), (b), and (c), of this section: *Provided,* That nothing in this Act shall be construed as repealing or limiting the application of any part of the Act, as amended, entitled "An Act relating to bills of lading in interstate and foreign commerce," approved August 29, 1916 (U. S. C., title 49, secs. 81–124), commonly known as the "Pomerene Bills of Lading Act."

(5) The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity, and weight, as furnished by him; and the shipper shall indemnify the carrier against all loss, damages, and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

(6) Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, such removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading. If the loss or damage is not apparent, the notice must be given within three days of the delivery.

Said notice of loss or damage may be endorsed upon the receipt for the goods given by the person taking delivery thereof.

The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection.

In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered: *Provided,* That if a notice of loss or damage, either apparent or concealed, is not given as provided for in this section, that fact shall not affect or prejudice the right of the shipper to bring suit within one year after the delivery of the goods or the date when the goods should have been delivered.

In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

(7) After the goods are loaded the bill of lading to be issued by the carrier, master, or agent of the carrier to the shipper shall, if the shipper so demands, be a "shipped" bill of lading: *Provided,* That if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the "shipped" bill of lading, but at the option of the carrier such document of title may be noted at the port of shipment by the carrier, master, or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted the same shall for the purpose of this section be deemed to constitute a "shipped" bill of lading.

(8) Any clause, covenant, or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with the goods, arising from negligence, fault, or failure in the duties and obligations provided in this section, or lessening such liability otherwise than as provided in this Act, shall be null and void and of no effect. A benefit of insurance in favor of the carrier, or similar clause, shall be deemed to be a clause relieving the carrier from liability.

RIGHTS AND IMMUNITIES

SEC. 4. (1) Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship is properly manned, equipped, and supplied, and to make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried fit and safe for their reception, carriage, and preservation in accordance with the provisions of paragraph (1) of section 3. Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other persons claiming exemption under this section.

(2) Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from—

(a) Act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship;

(b) Fire, unless caused by the actual fault or privity of the carrier;

(c) Perils, dangers, and accidents of the sea or other navigable waters;

(d) Act of God;

(e) Act of war;

(f) Act of public enemies;

(g) Arrest or restraint of princes, rulers, or people, or seizure under legal process;

(h) Quarantine restrictions;

(i) Act or omission of the shipper or owner of the goods, his agent or representative;

(j) Strikes or lockouts or stoppage or restraint of labor from whatever cause, whether partial or general: *Provided*, that nothing herein contained shall be construed to relieve a carrier from responsibility for the carrier's own acts;

(k) Riots and civil commotions;

(l) Saving or attempting to save life or property at sea;

(m) Wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods;

(n) Insufficiency of packing;

(o) Insufficiency or inadequacy of marks;

(p) Latent defects not discoverable by due diligence; and

(q) Any other cause arising without the actual fault and privity of the carrier and without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

(3) The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault, or neglect of the shipper, his agents, or his servants.

(4) Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of this Act or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom: *Provided, however*, That if the deviation is for the purpose of loading or unloading cargo or passengers it shall, prima facie, be regarded as unreasonable.

(5) Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with the transportation of goods in an amount exceeding $500 per package lawful money of the United States, or in case of goods not shipped in packages, per customary freight unit, or the equivalent of that sum in other currency, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading. This declaration, if embodied in the bill of lading, shall be prima facie evidence, but shall not be conclusive on the carrier.

By agreement between the carrier, master, or agent of the carrier, and the shipper another maximum amount than that mentioned in this paragraph may be fixed: *Provided*, That such maximum shall not be less than the figure above named. In no event shall the carrier be liable for more than the amount of damage actually sustained.

Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connection with the transportation of the goods if the nature or value thereof has been knowingly and fraudulently misstated by the shipper in the bill of lading.

(6) Goods of an inflammable, explosive, or dangerous nature to the shipment whereof the carrier, master or agent of the carrier, has not consented with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment. If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place, or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

SURRENDER OF RIGHTS AND IMMUNITIES AND INCREASE OF RESPONSIBILITIES AND LIABILITIES

SEC. 5. A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under this Act, provided such surrender or increase shall be embodied in the bill of lading issued to the shipper.

The provisions of this Act shall not be applicable to charter parties; but if bills of lading are issued in the case of a ship under a charter party, they shall comply with the terms of this Act. Nothing in this Act shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

SPECIAL CONDITIONS

SEC. 6. Notwithstanding the provisions of the preceding sections, a carrier, master or agent of the carrier, and a shipper shall, in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or his obligation as to seaworthiness (so far as the stipulation regarding seaworthiness is not contrary to public policy), or the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care, and discharge of the goods carried by sea: *Provided*, That in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a nonnegotiable document and shall be marked as such.

Any agreement so entered into shall have full legal effect: *Provided*, That this section shall not apply to ordinary commercial shipments made in the ordinary course of trade but only to other shipments where the character or condition of the property to be carried or the circumstances, terms, and conditions under which the carriage is to be performed are such as reasonably to justify a special agreement.

SEC. 7. Nothing contained in this Act shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation, or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on and subsequent to the discharge from the ship on which the goods are carried by sea.

SEC. 8. The provisions of this Act shall not affect the rights and obligations of the carrier under the provisions of the Shipping Act, 1916, or under the provisions of Sections 4281 to 4289, inclusive, of the Revised Statutes of the United States, or of any amendments thereto; or under the provisions of any other enactment for the time being in force relating to the limitation of the liability of the owners of seagoing vessels.

TITLE II

SECTION 9. Nothing contained in this Act shall be construed as permitting a common carrier by water to discriminate between competing shippers similarly placed in time and circumstances, either (a) with respect to their right to demand and receive bills of lading subject to the provisions of this Act; or (b) when issuing such bills of lading, either in the surrender of any of the carrier's rights and immunities or in the increase of any of the carrier's responsibilities and liabilities pursuant to Section 5, Title I, of this Act; or (c) in any other way prohibited by the Shipping Act, 1916, as amended.

SEC. 10. Section 25 of the Interstate Commerce Act is hereby amended by adding the following proviso at the end of paragraph 4 thereof: "*Provided, however*, That insofar as any bill of lading authorized hereunder relates to the carriage of goods by sea, such bill of lading shall be subject to the provisions of the Carriage of Goods by Sea Act."

SEC. 11. Where under the customs of any trade the weight of any bulk cargo inserted in the bill of lading is a weight ascertained or accepted by a third party other than the carrier or the shipper, and the fact that the weight is so ascertained or accepted is stated in the bill of lading, then, notwithstanding anything in this Act, the bill of lading shall not be deemed to be prima facie evidence against the carrier of the receipt of goods of the weight so inserted in the bill of lading, and the accuracy thereof at the time of shipment shall not be deemed to have been guaranteed by the shipper.

SEC. 12. Nothing in this Act shall be construed as superseding any part of the Act entitled "An Act relating to navigation of vessels, bills of lading, and to certain obligations, duties, and rights in connection with the carriage of property", approved February 13, 1893, or of any other law which would be applicable in the absence of this Act, insofar as they relate to the duties, responsibilities, and liabilities of the ship or carrier prior to the time when the goods are loaded on or after the time they are discharged from the ship.

SEC. 13. This Act shall apply to all contracts for carriage of goods by sea to or from ports of the United States in foreign trade. As used in this Act the term "United States" includes its districts, territories, and possessions: *Provided, however*, That the Philippine Legislature may by law exclude its application to transportation to or from ports of the Philippine Islands. The term "foreign trade" means the transportation of goods between the ports of the United States and ports of foreign countries. Nothing in this Act shall be held to apply to contracts for carriage of goods by sea between any port of the United States or its possessions, and any other port of the United States or its possessions: *Provided, however*, That any bill of lading or similar document of title which is evidence of a contract for the carriage of goods by sea between such ports, containing an express statement that it shall be subject to the provisions of this Act, shall be subjected hereto as fully as if subject hereto by the express provisions of this Act: *Provided further*, That every bill of lading or similar document of title which is evidence of a con-

tract for the carriage of goods by sea from ports of the United States, in foreign trade, shall contain a statement that it shall have effect subject to the provisions of this Act.

SEC. 14. Upon the certification of the Secretary of Commerce that the foreign commerce of the United States in its competition with that of foreign nations is prejudiced by the provisions, or any of them, of Title I of this Act, or by the laws of any foreign country or countries relating to the carriage of goods by sea, the President of the United States may, from time to time, by proclamation, suspend any or all provisions of Title I of this Act for such periods of time or indefinitely as may be designated in the proclamation. The President may at any time rescind such suspension of Title I hereof, and any provisions thereof which may have been suspended shall thereby be reinstated and again apply to contracts thereafter made for the carriage of goods by sea. Any proclamation of suspension or rescission of any such suspension shall take effect on a date named therein, which date shall be not less than ten days from the issue of the proclamation.

Any contract for the carriage of goods by sea, subject to the provisions of this Act, effective during any period when Title I hereof, or any part thereof, is suspended, shall be subject to all provisions of law now or hereafter applicable to that part of Title I which may have thus been suspended.

SEC. 15. This Act shall take effect ninety days after the date of its approval; but nothing in this Act shall apply during a period not to exceed one year following its approval to any contract for the carriage of goods by sea, made before the date on which this Act is approved, nor to any bill of lading or similar document of title issued, whether before or after such date of approval in pursuance of any such contract as aforesaid.

SEC. 16. This Act may be cited as the "Carriage of Goods by Sea Act."

Approved, April 16, 1936.

[Enclosure 3]

[MEMORANDUM OF THE DEPARTMENT OF STATE]

Comparison of the Carriage of Goods by Sea Act of the United States of America, Approved April 16, 1936, and the Bills of Lading Convention concluded at Brussels, August 25, 1924.

By the enacting clause of the Act Relating to the Carriage of Goods by Sea, approved April 16, 1936, every bill of lading or similar document of title which is evidence of a contract for the carriage of goods by sea to or from ports of the United States, in foreign trade, shall have effect subject to the provisions of the Act.

TITLE I

1. Section 3, subsection (2) of the Act does not contain the words "Subject to the provisions of Article 4" or their equivalent with which paragraph 2

of Article 3 of the Convention begins. The subsection, the words which are in the Convention but not in the Act being placed in parentheses, is as follows:

"SEC. 3. . . .

"(2) ("Subject to the provisions of Article 4") The carrier shall properly and carefully load, handle, stow, carry, keep, care for, and discharge the goods carried."

2. Section 3, subsection (4) of the Act contains a proviso which is not in the Convention reserving the Act relating to bills of lading in interstate and foreign commerce, approved August 29, 1916 (Pomerene Act). The proviso is underlined [6] in the following quotation from the Act:

"SEC. 3. . . .

"(4) Such a bill of lading shall be prima facie evidence of the receipt by the carrier of the goods as therein described in accordance with paragraphs (3) (a), (b), and (c), of this section; *Provided, That nothing in this Act shall be construed as repealing or limiting the application of any part of the Act, as amended, entitled 'An Act relating to bills of lading in interstate and foreign commerce', approved August 29, 1916 (U. S. C., title 49, secs. 81–124), commonly known as the 'Pomerene Bills of Lading Act.'*"

[This proviso is primarily for the protection of subsequent holders of bills of lading. Prior to the enactment of the Pomerene Act a number of cases had arisen in the United States in which shippers had induced representatives of common carriers to sign bills of lading receipting for goods on the shipper's assurance that the goods would later be delivered to the carrier. The shippers would then dispose of the bills of lading through the usual discounting procedure. Subsequently these shippers for various reasons sometimes failed to deliver the goods to the carrier. The courts in the United States held that the fact that the goods never came into the custody of the carrier was a good defense to relieve it of liability to the holder of the bill of lading. The Pomerene Act changed this law so as to place the liability under such situations on the carrier.] [7]

3. Section 3, subsection (6) of the Act contains a new paragraph, appearing as the second paragraph of the subsection, which is not in the Convention, providing that notice of loss or damage may be endorsed on the receipt given for the goods. The new paragraph is underlined [6] in the following quotation from the Act:

"SEC. 3. . . .

"(6) Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, such removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading. If the loss or damage is not apparent, the notice must be given within three days of the delivery.

"Said notice of loss or damage may be endorsed upon the receipt for the goods given by the person taking delivery thereof."

. . . . .

[6] Italicized.

[7] Brackets appear on original memorandum.

4. The fourth paragraph of Section 3, subsection (6) of the Act contains a proviso which is not in the Convention to the effect that in all cases suit may be brought within one year. The proviso is underlined [8] in the following quotation from the Act:

"SEC. 3. . . .
"(6) . . .
"In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered: *Provided, That if a notice of loss or damage, either apparent or concealed, is not given as provided for in this section, that fact shall not affect or prejudice the right of the shipper to bring suit within one year after the delivery of the goods or the date when the goods should have been delivered.*"

5. The condition "if it shows the particulars mentioned in paragraph 3 of Article 3" appearing near the end of paragraph 7 of Article 3 of the Convention is not in the Act. Section 3, subsection 7, of the Act, the language which is in the Convention but not in the Act being placed in parentheses, is as follows:

"SECTION 3. . . .
"7. After the goods are loaded the bill of lading to be issued by the carrier, master, or agent of the carrier to the shipper shall, if the shipper so demands, be a 'shipped' bill of lading; *Provided* that if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the 'shipped' bill of lading, but at the option of the carrier such document of title may be noted at the port of shipment by the carrier, master, or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted, (if it shows the particulars mentioned in paragraph 3 of Article 3,) the same shall for the purpose of this section be deemed to constitute a 'shipped' bill of lading."

6. Section 4, subsection (2) (j) of the Act contains a proviso which is not in the Convention affirming the responsibility of the carrier for his own acts in strikes, lockouts, et cetera. The proviso is underlined [8] in the following quotation from the Act:

"SEC. 4. . . .
"(2) Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from—

. . . . . .

"(j) Strikes or lockouts or stoppage or restraint of labor from whatever cause, whether partial or general *Provided, That nothing herein contained shall be construed to relieve a carrier from responsibility for the carrier's own acts;*"

7. Section 4, subsection 2 (q) of the Act differs from Article 4, paragraph 2 (q) of the Convention in that the word "and" is used at two places near

[8] Italicized.

the beginning of the paragraph in the Act where "or" is used in the Convention. Section 4, subsection (2) (q) of the Act is as follows:

"SEC. 4. . . .
"(2) Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from—

. . . . .

"(q) Any other cause arising without the actual fault (or) *and* privity of the carrier (or) *and* without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage."

8. Section 4, subsection (4) of the Act contains a proviso which is not in the Convention to the effect that deviation for the purpose of loading or unloading cargo or passengers is prima facie unreasonable. The proviso is underlined [9] in the following quotation from the Act:

"SEC. 4. . . .
"(4) Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of this Act or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom: *Provided, however, That if the deviation is for the purpose of loading or unloading cargo or passengers it shall, prima facie, be regarded as unreasonable.*"

9. Section 4, subsection (5) of the Act contains phraseology in the first paragraph by which the reservation which the Senate made in giving its advice and consent to the ratification of the Convention substituting lawful money of the United States in place of "gold value" is adopted. In this subsection $500 is substituted for 100 pounds sterling pursuant to the privilege reserved by the contracting states in the second paragraph of Article 9 of the Convention. The words "the transportation of" are used before "goods" near the beginning of the subsection, and the words "binding or" which appear in the Convention are omitted from the next sentence of this subsection. The language appearing in Section 4, subsection (5) of the Act, but not in Article 4, paragraph 5 of the Convention, is underlined [9] and the words "binding or" are placed in parentheses in the following quotation from the Act:

"SEC. 4. . . .
"(5) Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with *the transportation of* goods in an amount exceeding *$500* per package *lawful money of the United States, or in case of goods not shipped in packages, per customary freight* unit, or the equivalent of that sum in other currency, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading. This declaration, if embodied in the bill of lading, shall be prima facie evidence, but shall not be (binding or) conclusive on the carrier."

[9] Italicized.

10. Section 4, subsection (5) of the Act contains a sentence in the second paragraph which is not in the Convention to the effect that in no case shall the carrier be liable for more than the amount of damage actually sustained. The sentence is underlined[10] in the following quotation from the Act:

"SEC. 4. . . .
"(5) . . .
"By agreement between the carrier, master, or agent of the carrier, and the shipper another maximum amount than that mentioned in this paragraph may be fixed: *Provided,* That such maximum shall not be less than the figure above named. *In no event shall the carrier be liable for more than the amount of damage actually sustained.*"

. . . . . .

11. Section 4, subsection (5) last paragraph of the Act contains the phrases "the transportation of the" before "goods" and the words "and fraudulently" after "knowingly", which do not appear in the Convention. This paragraph of the Act, the expressions mentioned being underlined,[10] reads as follows:

"SEC. 4. . . .
"(5) . . .

. . . . . .

"Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connection with *the transportation of the* goods if the nature or value thereof has been knowingly *and fraudulently* misstated by the shipper in the bill of lading."

12. In Section 8 of the Act reservations are made saving from the operation of the Act the provisions relating to the liability of the owners of seagoing vessels in certain Acts of the Congress of the United States,—namely the Shipping Act of 1916 and Sections 4281 to 4289 inclusive of the Revised Statutes of the United States or any amendments thereof,—all of which this Government considers to be within the scope of the reservation in Article 8 of the Convention.

TITLE II

The provisions of Title II of the Act may be regarded as supplementary to the provisions of Title I, which, with the enacting clause taking the place of Article 10, correspond to the first ten articles of the Convention.

The provisions of Sections 9, 11 and 12 Title II of the Act are designed primarily to make clear that the provisions of Title I shall not be construed to affect certain features of American law and practice. Section 9 provides that a common carrier by water may not discriminate between competing shippers similarly placed in time and circumstance; Section 11 provides that where under the customs of any trade the weight of any bulk cargo inserted in a bill of lading was ascertained or accepted by a third party other than the carrier or the shipper, and that fact is stated in the bill of lading, the bill of lading shall not be deemed to be prima facie evidence against the carrier as

[10] Italicized.

to the weight, and that the accuracy of the weight at the time of shipment shall not be deemed to have been guaranteed by the shipper; Section 12 provides that nothing in the Carriage of Goods by Sea Act shall supersede any part of the Act of the United States entitled "An Act relating to navigation of vessels, bills of lading and to certain obligations, duties, and rights in connection with the carriage of property," approved February 13, 1893, (commonly known as "The Harter Act"), or of any other law which would be applicable in the absence of that Act, in so far as they relate to the duties, responsibilities and liabilities of the ship or carrier prior to the time when goods are loaded on or after the time they are discharged from the ship.

By Section 10 an amendment is made to Section 25 of the Interstate Commerce Act by adding at the end of paragraph 4 thereof a proviso to the effect that in so far as any bill of lading authorized under that paragraph relates to the carriage of goods by sea it shall be subject to the provisions of the Carriage of Goods by Sea Act.

Section 13 provides in effect that the Act applies in respect of foreign trade of the United States, including the foreign trade of territories and possessions. This section also provides that the Act does not apply to contracts for the carriage of goods by sea between ports of the United States and between ports of the United States and its possessions, or between the latter, namely in coastwise trade, but the section also provides for the recognition of express statements applying the provisions of the Act in shipments in such trade, when they are made in bills of lading.

By Section 14 authority is conferred on the President to suspend on not less than ten days notice any or all of the provisions of Title I upon certification by the Secretary of Commerce that the foreign commerce of the United States in its competition with the commerce of foreign nations is prejudiced by the operation of any of the provisions of Title I of the Act or by the laws of any foreign country or countries relating to the carriage of goods by sea.

The foregoing differences from the Convention, made in the Carriage of Goods by Sea Act, are intended primarily (1) to clarify provisions in the Convention which may be of uncertain meaning thereby avoiding expensive litigation in the United States for purposes of interpretation and (2) to coordinate the Carriage of Goods by Sea Act with other legislation of the United States.

WASHINGTON, D. C.
June 5, 1937.

Belgian Government's Acknowledgment of Notification

[Translation]

MINISTRY
OF
FOREIGN AFFAIRS
AND
FOREIGN COMMERCE

OFFICE OF THE JURIDICAL DEPARTMENT
No. 399/20646
Serial No. 23863

BRUSSELS, *July 2, 1937.*

MR. CHARGÉ D'AFFAIRES:

I had the honor to receive the letter No. 965 dated June 26 last, by which you were good enough to transmit to me the instruments of ratification of the President of the United States of America of the international convention for the unification of certain rules relating to bills of lading, signed at Brussels on August 25, 1924.

These instruments were accompanied by the text of the American law relating to the carriage of goods by sea and a memorandum of the Department of State.

As the instruments of ratification were deposited with the Belgian Ministry of Foreign Affairs and Foreign Commerce on June 29, 1937, this convention will go into effect with respect to the United States of America on December 29, 1937.

I also had the honor to receive your letter No. 969 dated June 29th,[11] by which you were good enough to transmit to me 25 copies of the text of the American law of April 16, 1936, and of the memorandum of June 5, 1937.

I should be very much obliged to you, Mr. Chargé d'Affaires, if you would transmit to me 30 additional copies of these two documents.

Please accept, Mr. Chargé d'Affaires, the assurance of my most distinguished consideration.

For the Minister:
Chief of the Juridical Department,
DE RUELLE

Mr. LOUIS SUSSDORFF, Junior,
Chargé d'Affaires of the United States of America,
Brussels.

[11] Not printed.

BOLIVIA-PARAGUAY

TREATY OF PEACE, FRIENDSHIP AND BOUNDARIES[1]

Signed at Buenos Aires, July 21, 1938; ratifications exchanged Aug. 29, 1938[2]

The Republics of Bolivia and Paraguay with the intention of consolidating peace definitively and to put an end to the differences which gave rise to the armed conflict of the Chaco; inspired by the desire to prevent future disagreements; keeping in mind that between states forming the American community there exist historical brotherly bonds which must not disappear by divergencies or events which must be considered and solved in a spirit of reciprocal understanding and good will; in execution of the undertaking to concert the definitive peace which both republics assumed in the Peace Protocol of June 12, 1935, and in the Protocolized Act of January 21, 1936; represented:

The Republic of Bolivia by His Excellency Dr. Eduardo Diez de Medina, Minister for Foreign Affairs, and His Excellency Dr. Enrique Finot, President of the delegation of that country to the Peace Conference;

And the Republic of Paraguay by His Excellency Dr. Cecilio Baez, Minister for Foreign Affairs; His Excellency General José Felix Estigarribia, President of the delegation of that country to the Peace Conference, and the delegates their Excellencies Doctors Luis A. Riart and Efraim Cardozo;

Present in Buenos Aires and duly authorized by their Governments have agreed to concert under the auspices and moral guarantee of the six mediatory governments, the following definitive treaty of peace, friendship and boundaries.

ARTICLE ONE. Peace between the Republics of Paraguay and Bolivia is reëstablished.

ARTICLE TWO. The dividing line in the Chaco between Bolivia and Paraguay will be that determined by the Presidents of the Republics of Argentina, Chile, United States of America, United States of Brazil, Peru and Uruguay in their capacity as arbitrators in equity, who acting *ex aequo et bono* will give their arbitral award in accordance with this and the following clauses.

A. The arbitral award will fix the northern dividing line in the Chaco in the zone comprised between the line of the Peace Conference presented May 27, 1938, and the line of the Paraguayan counter-proposal presented to the consideration of the Peace Conference June 24, 1938, from the meridian of Fort 27th of November, *i.e.*, approximately meridian 61° 55′ west of Greenwich, to the eastern limit of the zone, excluding the littoral on the Paraguay River south of the mouth of the River Otuquis or Negro.

B. The arbitral award will likewise fix the western dividing line in the Chaco between the Pilcomayo River and the intersection of the meridian of

[1] Department of State Press Release, No. 351, July 21, 1938.
[2] *Ibid.*, No. 407, Aug. 30, 1938.

Fort 27th of November, *i.e.*, approximately 61° 55′ west of Greenwich, with the line of the award in the north referred to in the previous paragraph.

C. The said line will not go on the Pilcomayo River more to the east than Pozo Hondo, nor to the west farther than any point on the line which, starting from D'Orbigny, was fixed by the Neutral Military Commission as intermediary between the maximum positions reached by the belligerent armies at the suspension of fire on June 14, 1935.

ARTICLE THREE. The arbitrators will pronounce, having heard the parties and according to their loyal knowledge and understanding taking into consideration the experience accumulated by the Peace Conference and the advice of the Military Advisers to that organization.

The six Presidents of the Republics mentioned in Article Two have the faculty of giving the award directly or by means of plenipotentiary delegates.

ARTICLE FOUR. The arbitral award will be given by the arbitrators within a maximum of two months counting from the ratification of the present treaty, obtained in the way and form stipulated in Article Eleven.

ARTICLE FIVE. The award being given and the parties notified, these will immediately name a mixed commission composed of five members, two named by each party, and the fifth designated by common agreement of the six mediatory governments, in order to apply on the ground and set the bournes of the dividing line given by the arbitral award.

ARTICLE SIX. Within thirty days after the award, the Governments of Bolivia and Paraguay will proceed to accredit their respective diplomatic representatives in Asunción and La Paz and within ninety days will fulfill the award in its principal aspects, under the vigilance of the Peace Conference, to whom the parties recognize the faculty of resolving definitely the practical questions which may arise in this connection.

ARTICLE SEVEN. The Republic of Paraguay guarantees the amplest free transit through its territory and especially through the zone of Puerto Casado, of merchandise arriving from abroad destined to Bolivia and of the products which issue from Bolivia to be embarked for abroad through the said zone of Puerto Casado; with the right for Bolivia to install customs agencies and construct depots and stores in the zone of the said port.

The regulations of this article will be the object of a later commercial convention between both Republics.

ARTICLE EIGHT. The arbitral award having been executed through the application and setting of bournes of the dividing line, the Governments of Bolivia and Paraguay will negotiate directly, government to government, the other economic and commercial conventions they deem proper to develop their reciprocal interests.

ARTICLE NINE. The Republics of Bolivia and Paraguay reciprocally renounce all action and claim deriving from the responsibilities of the war.

ARTICLE TEN. The Republics of Bolivia and Paraguay, renewing the

non-aggression pact stipulated in the Protocol of June 12, 1935, solemnly obligate themselves not to make war on each other nor to use force, directly or indirectly, as a means of solution of any present or future difference.

If in any event these were not resolved by direct diplomatic negotiations, they obligate themselves to have recourse to the conciliatory and arbitral procedures offered by international law and especially the American conventions and pacts.

ARTICLE ELEVEN. The present treaty will be ratified by the National Constitutional Convention of Bolivia and by a national plebiscite in Paraguay; in both cases ratification must take place within twenty days counting from the date of signature of this treaty. Ratifications shall be exchanged in the briefest period possible in the Peace Conference.

ARTICLE TWELVE. The parties declare that in case ratification referred to in the preceding article were not obtained, the text and content of this treaty cannot be invoked to found upon them allegations nor proofs in future occasions or procedures of arbitration or international justice.

In faith of which the representatives of Bolivia and Paraguay, together with the plenipotentiary delegates representing the mediatory countries in the Peace Conference, sign and seal the present treaty in double copy at Buenos Aires on the twenty-first day of the month of July, Nineteen hundred and thirty-eight.

DENMARK-FINLAND-ICELAND-NORWAY-SWEDEN

DECLARATION REGARDING SIMILAR RULES OF NEUTRALITY [1]

Signed at Stockholm, May 27, 1938

The Governments of Denmark, Finland, Iceland, Norway and Sweden,

Considering that it is highly desirable that the rules of neutrality applied by them in case of war between foreign Powers should be similar,

Have formulated, on the basis of the Declaration of December 21, 1912, between Denmark, Norway and Sweden, relative to the matter, the texts of rules of neutrality annexed hereto to be established by the said Governments, each as concerns itself,

And have agreed, in case that, as a result of its experiences, one of them should desire to modify the said rules, conforming to what is provided by the Convention Concerning the Rights and Duties of Neutral Powers in Naval War, signed at The Hague, October 18, 1907, it shall not proceed to such modification without having, if possible, previously notified the other four Governments in time to allow an exchange of views upon the matter.

In faith whereof the undersigned, duly authorized for this purpose by their

[1] Translated from *Finlands Författningssamlings Fördragsserie Overenskommelser Med Främmande Makter*, 1938, No. 17, pp. 93–94.

respective Governments, have signed the present Declaration and have affixed thereon their seals.

Done at Stockholm, in five copies, May 27, 1938.

(Seal) For Denmark: OVE ENGELL
(Seal) For Finland: J. K. PAASIKIVI
(Seal) For Iceland: OVE ENGELL
(Seal) For Norway: J. H. WOLLEBAEK
(Seal) For Sweden: RICKARD SANDLER

DENMARK

RULES OF NEUTRALITY [2]

With respect to the neutrality of Denmark in case of war between foreign Powers the following rules shall be applied from the date and in the manner fixed by the King.

ARTICLE 1

Admission into the ports and other territorial waters of the Kingdom is accorded to belligerent warships subject to the following exceptions, restrictions and conditions.

ARTICLE 2

1. Access to the port and roadstead of Copenhagen, as well as to the ports and maritime areas which shall have been declared closed ports or belonging to the protective zones of coastal defense installations, is prohibited to belligerent warships.

2. Access to inner waters whose entrance is barred either by submarine mines or by other means of defense is likewise prohibited to belligerent warships.

By "inner Danish waters" the present decree includes the ports, entrances to ports, gulfs and bays, as well as the waters situated between and within Danish islands, islets and reefs which are not continually submerged; in those parts of Danish territorial waters in the Kattegat, the Great and Little Belt and the Sound, which form the natural routes of traffic between the North Sea and the Baltic Sea, only ports, entrances to ports and to the roadstead of Copenhagen are, however, to be considered as inner waters.

3. Navigation or sojourn in Danish territorial waters is prohibited to belligerent submarines armed for war.

This prohibition is not applicable, however, to the traversing without unnecessary stoppage of the zone of exterior Danish waters which form a part of the natural routes of traffic between the North Sea and the Baltic Sea in the Kattegat, the Great and Little Belt and the Sound, excepting the roadstead of Copenhagen where any passage, because of its character as inner

[2] The rules adopted by each of the governments will be found in French, *ibid.*, pp. 95–118, from which they have been translated.

waters, is prohibited, nor to submarines compelled by the condition of the sea or on account of damages to enter prohibited waters and which indicate, by means of an international signal, the cause of their presence in these waters. The said submarines will be required to leave the prohibited waters as soon as the cause on account of which they entered shall have ceased to exist. In Danish territorial waters submarines shall constantly fly their national flag, and, except in case of imperative necessity, shall navigate on the surface.

4. The King reserves the right, in case of special circumstances, in order to safeguard sovereign rights and to maintain the neutrality of the Kingdom, while observing the general principles of international law, to prohibit access to Danish ports and to other zones determined to be Danish territorial waters other than those to which access is prohibited by the provisions set forth above.

5. The King likewise reserves the right to prohibit access to Danish ports and anchorages to those belligerent vessels of war which have neglected to conform to the regulations decreed by the competent Danish authorities or which have violated the neutrality of the Kingdom.

ARTICLE 3

1. Commerce destroyers [*corsaires*] shall not be permitted to enter Danish ports, nor to sojourn in Danish territorial waters.

2. Access to Danish ports or to Danish territorial waters is likewise prohibited to armed merchant ships of the belligerents, if the armament is destined to ends other than their own defense.

ARTICLE 4

1. Belligerent warships are prohibited to remain in Danish ports and anchorages or in other Danish territorial waters for more than 24 hours, except on account of damages or of stranding, the condition of the sea, or in the cases provided for in paragraphs 3 and 4 below. In such cases they must leave as soon as the cause of the delay shall have ceased to exist. In case of damages or of stranding, the competent Danish authority will fix a time limit deemed to be sufficient for the repairing of the damages or for the refloating of the vessel. No extension of the sojourn beyond 24 hours will be permitted, however, if it is manifest that the vessel cannot be rendered navigable within a reasonable delay, or when the damages shall have been caused by an act of war of the enemy.

The foregoing provisions relative to the limitation of the sojourn are not applicable to warships devoted exclusively to a religious, scientific or humanitarian mission, nor to military hospital ships.

2. The maximum number of warships of a belligerent Power or of several allied belligerent Powers which shall be admitted to sojourn at the same time in a Danish port or anchorage, or in the ports or anchorages of the same

coastal district of Denmark when the coast shall have been divided for that purpose into districts, shall be three.

3. When warships of the two belligerent parties sojourn at the same time in a Danish port or anchorage, a period of at least 24 hours must elapse between the departure of a ship of one belligerent party and that of a ship of the other, the order of departure being determined by the order of arrival, except when the prolongation of the sojourn of the ship which first arrived is permissible.

4. A belligerent warship may not leave a Danish port or anchorage where there is a merchant vessel flying the flag of the adversary less than 24 hours after the departure of the said merchant vessel. The competent authorities shall regulate the departures of merchant vessels in such a way as to avoid prolonging unnecessarily the sojourn of the warship.

ARTICLE 5

1. In Danish ports or anchorages belligerent warships may repair damages only to the extent indispensable to the safety of their navigation, and they may not increase in any manner their military force. Damaged ships may procure no aid on Danish territory for the repairing of damages manifestly caused by acts of war of the adversary. The competent Danish authorities shall determine the nature of the repairs to be made. The repairs shall be made as rapidly as possible and within the time limit provided for by Article 4, paragraph 1.

2. Belligerent warships are prohibited to make use of Danish ports or other Danish territorial waters for renewing or augmenting their military provisions or their armament, or for completing their crews.

3. Belligerent warships may revictual in Danish ports or anchorages only for completing their normal peace-time provisioning.

4. In Danish ports and anchorages belligerent warships will be subjected, so far as concerns refueling, to the same regulations as other foreign vessels. They may take aboard, however, only the quantity of fuel necessary for reaching the nearest port of their own country, and in no case a quantity exceeding that necessary for completely filling their own bunkers or their liquid fuel tanks. After having taken on board fuel in one of the ports or anchorages of the Kingdom, they may not renew their provisioning in its ports and anchorages before the expiration of a period of three months.

ARTICLE 6

Belligerent warships are required to use in Danish territorial waters pilots licensed by the Kingdom in every case where recourse to the service of a pilot is obligatory, but otherwise they may make use of the service of such a pilot only in case of distress to escape a peril of the sea.

ARTICLE 7

1. It is prohibited to bring prizes of foreign nationality into a Danish port or anchorage, except in case of unseaworthiness, rough weather, shortage of

fuel or provisions. Any prize brought into a Danish port or anchorage, for one of the above-mentioned causes must depart as soon as the cause thereof shall have ceased.

2. No prize court may be established by a belligerent either on Danish territory or on a ship in Danish territorial waters. The sale of prizes in a Danish port or anchorage is equally prohibited.

ARTICLE 8

1. Military aircraft of the belligerents, with the exception of aërial ambulances and aërial transports on board warships, shall not be admitted into Danish territory, except when regulations to the contrary apply or may become applicable so far as certain spaces are concerned conformable to the general principles of international law.

The said aircraft may traverse without unnecessary stoppage the exterior Danish territorial waters which connect the North Sea and the Baltic Sea by the Kattegat, the Great and Small Belt and the Sound, and the air-space thereabove. In the roadstead of Copenhagen and the air-space thereabove all passage is prohibited. Under all circumstances, they will be required in passing to keep as far as possible from the coast.

2. Aircraft transported on board belligerent warships are prohibited to leave these ships so long as they are in Danish territorial waters.

ARTICLE 9

1. Belligerent warships and military aircraft are required to respect the sovereign rights of the Kingdom and to abstain from all acts which would be contrary to its neutrality.

2. All acts of hostility are prohibited within the limits of Danish territory, including arrest, visit and capture of vessels and of aircraft, whether neutral or belonging to the adversary. Any vessel or aircraft which may have been captured therein must be immediately released, together with its officers, crew and cargo.

ARTICLE 10

Existing sanitary, pilotage, customs, navigation, aërial movement, harbor and police regulations must be strictly observed.

ARTICLE 11

Belligerents are prohibited to make Danish territory the base of military operations against their adversaries.

ARTICLE 12

1. Belligerents and persons in their service are prohibited to install or to operate in Danish territory radiotelegraphic stations or any other apparatus destined to serve as a means of communication with the belligerent forces, whether military, naval or aërial.

2. Belligerents are prohibited to employ in Danish territory their mobile radiotelegraphic stations, whether belonging or not to the combatant forces, for the sending of communications, except in case of distress or for corresponding with the Danish authorities through the intermediary of a Danish radiotelegraphic station, land or coastal, or via a radiotelegraphic station installed on board a vessel belonging to the Danish Navy.

ARTICLE 13

It is prohibited to carry out in Danish territory observations from an aircraft, or in any other manner, relating to the movements, operations or defense works of a belligerent with a view to informing the other belligerent.

ARTICLE 14

1. Belligerents are prohibited to establish fuel depots either on the soil of the Kingdom or on board vessels stationed in its territorial waters.

2. Vessels or aircraft obviously navigating with a view to supplying the combatant forces of the belligerents with fuel or other provisions are prohibited to take on such supplies in Danish ports or anchorages exceeding in quantity that necessary for their own needs.

ARTICLE 15

1. The fitting out or arming on Danish territory of any vessel destined to be employed to cruise or engage in operations of war against one of the belligerents is forbidden. Vessels intended to be used for one of the aforementioned purposes and which have been adapted, in whole or in part, in Danish territory for use in war, are likewise forbidden to leave that territory.

2. Any aircraft in a condition to commit an attack against a belligerent, or which carries apparatus or material the mounting or utilization of which would permit it to commit an attack, is forbidden to leave Danish territory if there is reason to presume that it is destined to be employed against a belligerent Power. It is likewise forbidden to perform work on an aircraft in order to prepare its departure for the above-mentioned purpose.

FINLAND

RULES OF NEUTRALITY

With respect to the neutrality of Finland in case of war between foreign Powers the following rules shall be applied from the date and in the manner fixed by the President of the Republic.

ARTICLE 1

Admission into the ports and other territorial waters of the Republic is accorded to belligerent warships subject to the following exceptions, restrictions and conditions.

ARTICLE 2

1. Access to the ports and maritime areas which shall have been declared closed ports belonging to the protective zones of coastal defense installations is prohibited to belligerent warships.

2. Access to inner waters whose entrance is barred either by submarine mines or by other means of defense is likewise prohibited to belligerent warships.

By "inner Finland waters" the present decree includes the ports, entrances to ports, gulfs and bays, as well as the waters situated between and within Finnish islands, islets and reefs which are not continually submerged.

3. Navigation or sojourn in Finnish territorial waters is prohibited to belligerent submarines armed for war.

This prohibition is not applicable, however, to submarines compelled by the condition of the sea or on account of damages to enter the prohibited waters and which indicate, by means of an international signal, the cause of their presence in these waters. The said submarines will be required to leave the prohibited waters as soon as the cause on account of which they entered shall have ceased to exist. In Finnish territorial waters submarines shall constantly fly their national flag, and, except in case of imperative necessity, shall navigate on the surface.

4. The President of the Republic reserves the right, in case of special circumstances, in order to safeguard sovereign rights and to maintain the neutrality of the Republic, while observing the general principles of international law, to prohibit access to Finnish ports and to other zones determined to be Finnish territorial waters other than those to which access is prohibited by the provisions set forth above.

5. The President of the Republic likewise reserves the right to prohibit access to Finnish ports and anchorages to those belligerent vessels of war which have neglected to conform to the regulations decreed by the competent Finnish authorities or which have violated the neutrality of the Republic.

ARTICLE 3

1. Commerce destroyers [*corsaires*] shall not be permitted to enter Finnish ports, nor to sojourn in Finnish territorial waters.

2. Access to Finnish ports or to Finnish territorial waters is likewise prohibited to armed merchant ships of the belligerents, if the armament is destined to ends other than their own defense.

ARTICLE 4

1. Belligerent warships are prohibited to remain in Finnish ports and anchorages or in other Finnish territorial waters for more than 24 hours, except on account of damages or of stranding, the condition of the sea, or in the cases provided for in paragraphs 3 and 4 below. In such cases they must leave as soon as the cause of the delay shall have ceased to exist. In case of damages

or of stranding, the competent Finnish authority will fix a time limit deemed to be sufficient for the repairing of the damages or for the refloating of the vessel. No extension of the sojourn beyond 24 hours will be permitted, however, if it is manifest that the vessel cannot be rendered navigable within a reasonable delay, or when the damages shall have been caused by an act of war of the enemy.

The foregoing provisions relative to the limitation of the sojourn are not applicable to warships devoted exclusively to a religious, scientific or humanitarian mission, nor to military hospital ships.

2. The maximum number of warships of a belligerent Power or of several allied belligerent Powers which shall be admitted to sojourn at the same time in a Finnish port or anchorage, or in the ports or anchorages of the same coastal district of Finland when the coast shall have been divided for that purpose into districts, shall be three.

3. When warships of the two belligerent parties sojourn at the same time in a Finnish port or anchorage, a period of at least 24 hours must elapse between the departure of a ship of one belligerent party and that of a ship of the other, the order of departure being determined by the order of arrival, except when the prolongation of the sojourn of the ship which first arrived is permissible.

4. A belligerent warship may not leave a Finnish port or anchorage where there is a merchant vessel flying the flag of the adversary less than 24 hours after the departure of the said merchant vessel. The competent authorities shall regulate the departures of merchant vessels in such a way as to avoid prolonging unnecessarily the sojourn of the warship.

Article 5

1. In Finnish ports or anchorages belligerent warships may repair damages only to the extent indispensable to the safety of their navigation, and they may not increase in any manner their military force. Damaged ships may procure no aid on Finnish territory for the repairing of damages manifestly caused by acts of war of the adversary. The competent Finnish authorities shall determine the nature of the repairs to be made. The repairs shall be made as rapidly as possible and within the time limit provided for by Article 4, paragraph 1.

2. Belligerent warships are prohibited to make use of Finnish ports or other Finnish territorial waters for renewing or augmenting their military provisions or their armament, or for completing their crews.

3. Belligerent warships may revictual in Finnish ports or anchorages only for completing their normal peace-time provisioning.

4. In Finnish ports and anchorages belligerent warships will be subjected, so far as concerns refueling, to the same regulations as other foreign vessels. They may take aboard, however, only the quantity of fuel necessary for reaching the nearest port of their own country, and in no case a quantity exceeding that necessary for completely filling their own bunkers or their

liquid fuel tanks. After having taken on board fuel in one of the ports or anchorages of the Republic, they may not renew their provisioning in its ports and anchorages before the expiration of a period of three months.

ARTICLE 6

Belligerent warships are required to use in Finnish territorial waters pilots licensed by the Republic in every case where recourse to the service of a pilot is obligatory, but otherwise they may make use of the service of such a pilot only in case of distress to escape a peril of the sea.

ARTICLE 7

1. It is prohibited to bring prizes of foreign nationality into a Finnish port or anchorage, except in case of unseaworthiness, rough weather, shortage of fuel or provisions. Any prize brought into a Finnish port or anchorage for one of the above-mentioned causes must depart as soon as the cause thereof shall have ceased.

2. No prize court may be established by a belligerent either on Finnish territory or on a ship in Finnish territorial waters. The sale of prizes in a Finnish port or anchorage is equally prohibited.

ARTICLE 8

1. Military aircraft of the belligerents, with the exception of aërial ambulances and aërial transports on board warships, shall not be admitted into Finnish territory, except when regulations to the contrary apply or may become applicable so far as certain spaces are concerned conformable to the general principles of international law.

2. Aircraft transported on board belligerent warships are prohibited to leave these ships so long as they are in Finnish territorial waters.

ARTICLE 9

1. Belligerent warships and military aircraft are required to respect the sovereign rights of the Republic and to abstain from all acts which would be contrary to its neutrality.

2. All acts of hostility are prohibited within the limits of Finnish territory, including arrest, visit and capture of vessels and of aircraft, whether neutral or belonging to the adversary. Any vessel or aircraft which may have been captured therein must be immediately released, together with its officers, crew and cargo.

ARTICLE 10

Existing sanitary, pilotage, customs, navigation, aërial movement, harbor and police regulations must be strictly observed.

ARTICLE 11

Belligerents are prohibited to make Finnish territory the base of military operations against their adversaries.

ARTICLE 12

1. Belligerents and persons in their service are prohibited to install or to operate in Finnish territory radiotelegraphic stations or any other apparatus destined to serve as a means of communication with the belligerent forces, whether military, naval or aërial.

2. Belligerents are prohibited to employ in Finnish territory their mobile radiotelegraphic stations, whether belonging or not to the combatant forces, for the sending of communications, except in case of distress or for corresponding with the Finnish authorities through the intermediary of a Finnish radiotelegraphic station, land or coastal, or via a radiotelegraphic station installed on board a vessel belonging to the Finnish Navy.

ARTICLE 13

It is prohibited to carry out in Finnish territory observations from an aircraft, or in any other manner, relating to the movements, operations or defense works of a belligerent with a view to informing the other belligerent.

ARTICLE 14

1. Belligerents are prohibited to establish fuel depots either on the soil of the Republic or on board vessels stationed in its territorial waters.

2. Vessels or aircraft obviously navigating with a view to supplying the combatant forces of the belligerents with fuel or other provisions are prohibited to take on such supplies in Finnish ports or anchorages exceeding in quantity that necessary for their own needs.

ARTICLE 15

1. The fitting out or arming on Finnish territory of any vessel destined to be employed to cruise or engage in operations of war against one of the belligerents is forbidden. Vessels intended to be used for one of the aforementioned purposes and which have been adapted, in whole or in part, in Finnish territory for use in war, are likewise forbidden to leave that territory.

2. Any aircraft in a condition to commit an attack against a belligerent, or which carries apparatus or material the mounting or utilization of which would permit it to commit an attack, is forbidden to leave Finnish territory if there is reason to presume that it is destined to be employed against a belligerent Power. It is likewise forbidden to perform work on an aircraft in order to prepare its departure for the above-mentioned purpose.

ICELAND

RULES OF NEUTRALITY

With respect to the neutrality of Iceland in case of war between foreign Powers the following rules shall be applied from the date and in the manner fixed by the King.

ARTICLE 1

Admission into the ports and other territorial waters of the Kingdom is accorded to belligerent warships subject to the following exceptions, restrictions and conditions.

ARTICLE 2

1. Navigation or sojourn in Icelandic territorial waters is prohibited to belligerent submarines armed for war.

This prohibition is not applicable, however, to submarines compelled by the condition of the sea or on account of damages to enter prohibited waters and which indicate, by means of an international signal, the cause of their presence in these waters. The said submarines will be required to leave the prohibited waters as soon as the cause on account of which they entered shall have ceased to exist. In Icelandic territorial waters submarines shall constantly fly their national flag, and, except in case of imperative necessity, shall navigate on the surface.

2. The King reserves the right, in case of special circumstances, in order to safeguard sovereign rights and to maintain the neutrality of the Kingdom, while observing the general principles of international law, to prohibit access to Icelandic ports and to other zones determined to be Icelandic territorial waters.

3. The King likewise reserves the right to prohibit access to Icelandic ports and anchorages to those belligerent vessels of war which have neglected to conform to the regulations decreed by the competent Icelandic authorities or which have violated the neutrality of the Kingdom.

ARTICLE 3

1. Commerce destroyers [*corsaires*] shall not be permitted to enter Icelandic ports, nor to sojourn in Icelandic territorial waters.

2. Access to Icelandic ports or to Icelandic territorial waters is likewise prohibited to armed merchant ships of the belligerents, if the armament is destined to ends other than their own defense.

ARTICLE 4

1. Belligerent warships are prohibited to remain in Icelandic ports and anchorages or in other Icelandic territorial waters for more than 24 hours, except on account of damages or of stranding, the condition of the sea, or in the cases provided for in paragraphs 3 and 4 below. In such cases they must leave as soon as the cause of the delay shall have ceased to exist. In case of damages or of stranding, the competent Icelandic authority will fix a time limit deemed to be sufficient for the repairing of the damages or for the refloating of the vessel. No extension of the sojourn beyond 24 hours will be permitted, however, if it is manifest that the vessel cannot be rendered navigable within a reasonable delay, or when the damages shall have been caused by an act of war of the enemy.

The foregoing provisions relative to the limitation of the sojourn are not

applicable to warships devoted exclusively to a religious, scientific or humanitarian mission, nor to military hospital ships.

2. The maximum number of warships of a belligerent Power or of several allied belligerent Powers which shall be admitted to sojourn at the same time in an Icelandic port or anchorage, or in the ports or anchorages of the same coastal district of Iceland when the coast shall have been divided for that purpose into districts, shall be three.

3. When warships of the two belligerent parties sojourn at the same time in an Icelandic port or anchorage, a period of at least 24 hours must elapse between the departure of a ship of one belligerent party and that of a ship of the other, the order of departure being determined by the order of arrival, except when the prolongation of the sojourn of the ship which first arrived is permissible.

4. A belligerent warship may not leave an Icelandic port or anchorage where there is a merchant vessel flying the flag of the adversary less than 24 hours after the departure of the said merchant vessel. The competent authorities shall regulate the departures of merchant vessels in such a way as to avoid prolonging unnecessarily the sojourn of the warship.

Article 5

1. In Icelandic ports or anchorages belligerent warships may repair damages only to the extent indispensable to the safety of their navigation, and they may not increase in any manner their military force. Damaged ships may procure no aid on Icelandic territory for the repairing of damages manifestly caused by acts of war of the adversary. The competent Icelandic authorities shall determine the nature of the repairs to be made. The repairs shall be made as rapidly as possible and within the time limit provided for by Article 4, paragraph 1.

2. Belligerent warships are prohibited to make use of Icelandic ports or other Icelandic territorial waters for renewing or augmenting their military provisions or their armament, or for completing their crews.

3. Belligerent warships may revictual in Icelandic ports or anchorages only for completing their normal peace-time provisioning.

4. In Icelandic ports and anchorages belligerent warships will be subjected, so far as concerns refueling, to the same regulations as other foreign vessels. They may take aboard, however, only the quantity of fuel necessary for reaching the nearest port of their own country, and in no case a quantity exceeding that necessary for completely filling their own bunkers or their liquid fuel tanks. After having taken on board fuel in one of the ports or anchorages of the Kingdom, they may not renew their provisioning in its ports and anchorages before the expiration of a period of three months.

Article 6

Belligerent warships are required to use in Icelandic territorial waters pilots licensed by the Kingdom, in every case where recourse to the service of a pilot

is obligatory, but otherwise they may make use of the service of such a pilot only in case of distress to escape a peril of the sea.

ARTICLE 7

1. It is prohibited to bring prizes of foreign nationality into an Icelandic port or anchorage, except in case of unseaworthiness, rough weather, shortage of fuel or provisions. Any prize brought into an Icelandic port or anchorage for one of the above-mentioned causes must depart as soon as the cause thereof shall have ceased.

2. No prize court may be established by a belligerent either on Icelandic territory or on a ship in Icelandic territorial waters. The sale of prizes in an Icelandic port or anchorage is equally prohibited.

ARTICLE 8

1. Military aircraft of the belligerents, with the exception of aërial ambulances and aërial transports on board warships, shall not be admitted into Icelandic territory, except when regulations to the contrary apply or may become applicable so far as certain spaces are concerned conformable to the general principles of international law.

2. Aircraft transported on board belligerent warships are prohibited to leave these ships so long as they are in Icelandic territorial waters.

ARTICLE 9

1. Belligerent warships and military aircraft are required to respect the sovereign rights of the Kingdom and to abstain from all acts which would be contrary to its neutrality.

2. All acts of hostility are prohibited within the limits of Icelandic territory, including arrest, visit and capture of vessels and of aircraft, whether neutral or belonging to the adversary. Any vessel or aircraft which may have been captured therein must be immediately released, together with its officers, crew and cargo.

ARTICLE 10

Existing sanitary, pilotage, customs, navigation, aërial movement, harbor and police regulations must be strictly observed.

ARTICLE 11

Belligerents are prohibited to make Icelandic territory the base of military operations against their adversaries.

ARTICLE 12

1. Belligerents and persons in their service are prohibited to install or to operate in Icelandic territory radiotelegraphic stations or any other apparatus destined to serve as a means of communication with the belligerent forces, whether military, naval or aërial.

2. Belligerents are prohibited to employ in Icelandic territory their mobile radiotelegraphic stations, whether belonging or not to the combatant forces, for the sending of communications, except in case of distress or for correspondence with the Icelandic authorities through the intermediary of an Icelandic radiotelegraphic station, either on land or installed on board a vessel utilized by the Icelandic police.

ARTICLE 13

It is prohibited to carry out in Icelandic territory observations from an aircraft, or in any other manner, relating to the movements, operations or defense works of a belligerent with a view to informing the other belligerent.

ARTICLE 14

1. Belligerents are prohibited to establish fuel depots either on the soil of the Kingdom or on board vessels stationed in its territorial waters.

2. Vessels or aircraft obviously navigating with a view to supplying the combatant forces of the belligerents with fuel or other provisions are prohibited to take on such supplies in Icelandic ports or anchorages exceeding in quantity that necessary for their own needs.

ARTICLE 15

1. The fitting out or arming on Icelandic territory of any vessel destined to be employed to cruise or engage in operations of war against one of the belligerents is forbidden. Vessels intended to be used for one of the aforementioned purposes and which have been adapted, in whole or in part, in Icelandic territory for use in war, are likewise forbidden to leave that territory.

2. Any aircraft in a condition to commit an attack against a belligerent, or which carries apparatus or material the mounting or utilization of which would permit it to commit an attack, is forbidden to leave Icelandic territory if there is reason to presume that it is destined to be employed against a belligerent Power. It is likewise forbidden to perform work on an aircraft in order to prepare its departure for the above-mentioned purpose.

NORWAY

RULES OF NEUTRALITY

With respect to the neutrality of Norway in case of war between foreign Powers the following rules shall be applied from the date and in the manner fixed by the King.

ARTICLE 1

Admission into the ports and other territorial waters of the Kingdom is accorded to belligerent warships subject to the following exceptions, restrictions and conditions.

ARTICLE 2

1. Access to the ports and maritime areas which shall have been declared closed ports or belonging to the protective zones of coastal defense installations, is prohibited to belligerent warships.

2. Access to inner waters whose entrance is barred either by submarine mines or by other means of defense is likewise prohibited to belligerent warships.

By "inner Norwegian waters" the present decree includes the ports, entrances to ports, gulfs and bays, as well as the waters situated between and within Norwegian islands, islets and reefs which are not continually submerged.

3. Navigation or sojourn in Norwegian territorial waters is prohibited to belligerent submarines armed for war.

This prohibition is not applicable, however, to submarines compelled by the condition of the sea or on account of damages to enter prohibited waters and which indicate, by means of an international signal, the cause of their presence in these waters. The said submarines will be required to leave the prohibited waters as soon as the cause on account of which they entered shall have ceased to exist. In Norwegian territorial waters submarines shall constantly fly their national flag, and, except in case of imperative necessity, shall navigate on the surface.

4. The King reserves the right, in case of special circumstances, in order to safeguard sovereign rights and to maintain the neutrality of the Kingdom, while observing the general principles of international law, to prohibit access to Norwegian ports and to other zones determined to be Norwegian territorial waters other than those to which access is prohibited by the provisions set forth above.

5. The King likewise reserves the right to prohibit access to Norwegian ports and anchorages to those belligerent vessels of war which have neglected to conform to the regulations decreed by the competent Norwegian authorities or which have violated the neutrality of the Kingdom.

ARTICLE 3

1. Commerce destroyers [*corsaires*] shall not be permitted to enter Norwegian ports, nor to sojourn in Norwegian territorial waters.

2. Access to Norwegian ports or to Norwegian territorial waters is likewise prohibited to armed merchant ships of the belligerents, if the armament is destined to ends other than their own defense.

ARTICLE 4

1. Belligerent warships are prohibited to remain in Norwegian ports and anchorages or in other Norwegian territorial waters for more than 24 hours, except on account of damages or of stranding, the condition of the sea, or in the cases provided for in paragraphs 3 and 4 below. In such cases they must

leave as soon as the cause of the delay shall have ceased to exist. In case of damages or of stranding, the competent Norwegian authority will fix a time limit deemed to be sufficient for the repairing of the damages or for the refloating of the vessel. No extension of the sojourn beyond 24 hours will be permitted, however, if it is manifest that the vessel cannot be rendered navigable within a reasonable delay, or when the damages shall have been caused by an act of war of the enemy.

The foregoing provisions relative to the limitation of the sojourn are not applicable to warships devoted exclusively to a religious, scientific or humanitarian mission, nor to military hospital ships.

2. The maximum number of warships of a belligerent Power or of several allied belligerent Powers which shall be admitted to sojourn at the same time in a Norwegian port or anchorage, or in the ports or anchorages of the same coastal district of Norway when the coast shall have been divided for that purpose into districts, shall be three.

3. When warships of the two belligerent parties sojourn at the same time in a Norwegian port or anchorage, a period of at least 24 hours must elapse between the departure of a ship of one belligerent party and that of a ship of the other, the order of departure being determined by the order of arrival, except when the prolongation of the sojourn of the ship which first arrived is permissible.

4. A belligerent warship may not leave a Norwegian port or anchorage where there is a merchant vessel flying the flag of the adversary less than 24 hours after the departure of the said merchant vessel. The competent authorities shall regulate the departures of merchant vessels in such a way as to avoid prolonging unnecessarily the sojourn of the warship.

Article 5

1. In Norwegian ports or anchorages belligerent warships may repair damages only to the extent indispensable to the safety of their navigation, and they may not increase in any manner their military force. Damaged ships may procure no aid on Norwegian territory for the repairing of damages manifestly caused by acts of war of the adversary. The competent Norwegian authorities shall determine the nature of the repairs to be made. The repairs shall be made as rapidly as possible and within the time limit provided for by Article 4, paragraph 1.

2. Belligerent warships are prohibited to make use of Norwegian ports or other Norwegian territorial waters for renewing or augmenting their military provisions or their armament, or for completing their crews.

3. Belligerent warships may revictual in Norwegian ports or anchorages only for completing their normal peace-time provisioning.

4. In Norwegian ports and anchorages belligerent warships will be subjected, so far as concerns refueling, to the same regulations as other foreign vessels. They may take aboard, however, only the quantity of fuel necessary

for reaching the nearest port of their own country, and in no case a quantity exceeding that necessary for completely filling their own bunkers or their liquid fuel tanks. After having taken on board fuel in one of the ports or anchorages of the Kingdom, they may not renew their provisioning in its ports and anchorages before the expiration of a period of three months.

ARTICLE 6

Belligerent warships are required to use in Norwegian territorial waters pilots licensed by the Kingdom in every case where recourse to the service of a pilot is obligatory, but otherwise they may make use of the service of such a pilot only in case of distress to escape a peril of the sea.

ARTICLE 7

1. It is prohibited to bring prizes of foreign nationality into a Norwegian port or anchorage, except in case of unseaworthiness, rough weather, shortage of fuel or provisions. Any prize brought into a Norwegian port or anchorage for one of the above-mentioned causes must depart as soon as the cause thereof shall have ceased.

2. No prize court may be established by a belligerent either on Norwegian territory or on a ship in Norwegian territorial waters. The sale of prizes in a Norwegian port or anchorage is equally prohibited.

ARTICLE 8

1. Military aircraft of the belligerents, with the exception of aërial ambulances and aërial transports on board warships, shall not be admitted into Norwegian territory, except when regulations to the contrary apply or may become applicable so far as certain spaces are concerned conformable to the general principles of international law.

2. Aircraft transported on board belligerent warships are prohibited to leave these ships so long as they are in Norwegian territorial waters.

ARTICLE 9

1. Belligerent warships and military aircraft are required to respect the sovereign rights of the Kingdom and to abstain from all acts which would be contrary to its neutrality.

2. All acts of hostility are prohibited within the limits of Norwegian territory, including arrest, visit and capture of vessels and of aircraft, whether neutral or belonging to the adversary. Any vessel or aircraft which may have been captured therein must be immediately released, together with its officers, crew and cargo.

ARTICLE 10

Existing sanitary, pilotage, customs, navigation, aërial movement, harbor and police regulations must be strictly observed.

ARTICLE 11

Belligerents are prohibited to make Norwegian territory the base of military operations against their adversaries.

ARTICLE 12

1. Belligerents and persons in their service are prohibited to install or to operate in Norwegian territory radiotelegraphic stations or any other apparatus destined to serve as a means of communication with the belligerent forces, whether military, naval or aërial.

2. Belligerents are prohibited to employ in Norwegian territory their mobile radiotelegraphic stations, whether belonging or not to the combatant forces, for the sending of communications, except in case of distress or for corresponding with the Norwegian authorities through the intermediary of a Norwegian radiotelegraphic station, land or coastal, or via a radiotelegraphic station installed on board a vessel belonging to the Norwegian Navy.

ARTICLE 13

It is prohibited to carry out in Norwegian territory observations from an aircraft, or in any other manner, relating to the movements, operations or defense works of a belligerent with a view to informing the other belligerent.

ARTICLE 14

1. Belligerents are prohibited to establish fuel depots either on the soil of the Kingdom or on board vessels stationed in its territorial waters.

2. Vessels or aircraft obviously navigating with a view to supplying the combatant forces of the belligerents with fuel or other provisions are prohibited to take on such supplies in Norwegian ports or anchorages exceeding in quantity that necessary for their own needs.

ARTICLE 15

1. The fitting out or arming on Norwegian territory of any vessel destined to be employed to cruise or engage in operations of war against one of the belligerents is forbidden. Vessels intended to be used for one of the aforementioned purposes and which have been adapted, in whole or in part, in Norwegian territory for use in war, are likewise forbidden to leave that territory.

2. Any aircraft in a condition to commit an attack against a belligerent, or which carries apparatus or material the mounting or utilization of which would permit it to commit an attack, is forbidden to leave Norwegian territory if there is reason to presume that it is destined to be employed against a belligerent Power. It is like wise forbidden to perform work on an aircraft in order to prepare its departure for the above-mentioned purpose.

SWEDEN

Rules of Neutrality

With respect to the neutrality of Sweden in case of war between foreign Powers the following rules shall be applied from the date and in the manner fixed by the King.

Article 1

Admission into the ports and other territorial waters of the Kingdom is accorded to belligerent warships subject to the following exceptions, restrictions and conditions.[1]

Article 2

1. Access to the ports and maritime areas which shall have been declared closed ports or belonging to the protective zones of coastal defense installations, is prohibited to belligerent warships.

2. Access to inner waters whose entrance is barred either by submarine mines or by other means of defense is equally prohibited to belligerent warships.

By "inner Swedish waters" the present decree includes the ports, entrances to ports, gulfs and bays, as well as the waters situated between and within Swedish islands, islets and reefs which are not continually submerged; only ports and entrances to ports are to be considered as inner waters in the Sound to the north of the parallel of latitude drawn through the lighthouse of Klagshamn.

3. Navigation or sojourn in Swedish territorial waters is prohibited to belligerent submarines armed for war.

This prohibition is not applicable, however, to the traversing without unnecessary stoppage of the zone of exterior Swedish waters in the Sound bounded on the north by a line drawn from Kullen to Gilbjerghoved, and on the south by a line drawn from the point of Falsterbo to the lighthouse of Stevn, nor to submarines compelled by the condition of the sea or on account of damages to enter prohibited waters and which indicate, by means of an international signal, the cause of their presence in these waters. The said submarines will be required to leave the prohibited waters as soon as the cause on account of which they entered shall have ceased to exist. In Swedish territorial waters submarines shall constantly fly their national flag, and, except in case of imperative necessity, shall navigate on the surface.

4. The King reserves the right, in case of special circumstances, in order to safeguard sovereign rights and to maintain the neutrality of the Kingdom,

[1] By Swedish territory is understood all Swedish lands and waters, as well as the air-space thereabove. Seaward, Swedish territory extends to a distance of four marine miles, or 7408 meters, from land or from lines constituting on this side the limit of inner waters. See the Customs Regulation of October 7, 1927, Article 1, and the Royal Letter of May 4, 1934, concerning the fixation of the limit of the Swedish customs zone, with charts relating thereto.

while observing the general principles of international law, to prohibit access to Swedish ports and to other zones determined to be Swedish territorial waters other than those to which access is prohibited by the provisions set forth above.

5. The King likewise reserves the right to prohibit access to Swedish ports and anchorages to those belligerent vessels of war which have neglected to conform to the regulations decreed by the competent Swedish authorities or which have violated the neutrality of the Kingdom.

ARTICLE 3

1. Commerce destroyers [*corsaires*] shall not be permitted to enter Swedish ports, nor to sojourn in Swedish territorial waters.

2. Access to Swedish ports or to Swedish territorial waters is likewise prohibited to armed merchant ships of the belligerents, if the armament is destined to ends other than their own defense.

ARTICLE 4

1. Belligerent warships are prohibited to remain in Swedish ports and anchorages or in other Swedish territorial waters for more than 24 hours, except on account of damages or of stranding, the condition of the sea, or in the cases provided for in paragraphs 3 and 4 below. In such cases they must leave as soon as the cause of the delay shall have ceased to exist. In case of damages or of stranding, the competent Swedish authority will fix a time limit deemed to be sufficient for the repairing of the damages or for the refloating of the vessel. No extension of the sojourn beyond 24 hours will be permitted, however, if it is manifest that the vessel cannot be rendered navigable within a reasonable delay, or when the damages shall have been caused by an act of war of the enemy.

The foregoing provisions relative to the limitation of the sojourn are not applicable to warships devoted exclusively to a religious, scientific or humanitarian mission, nor to military hospital ships.

2. The maximum number of warships of a belligerent Power or of several allied belligerent Powers which shall be admitted to sojourn at the same time in a Swedish port or anchorage, or in the ports or anchorages of the same coastal district of Sweden when the coast shall have been divided for that purpose into districts, shall be three.

3. When warships of the two belligerent parties sojourn at the same time in a Swedish port or anchorage, a period of at least 24 hours must elapse between the departure of a ship of one belligerent party and that of a ship of the other, the order of departure being determined by the order of arrival, except when the prolongation of the sojourn of the ship which first arrived is permissible.

4. A belligerent warship may not leave a Swedish port or anchorage where there is a merchant vessel flying the flag of the adversary less than 24 hours after the departure of the said merchant vessel. The competent authorities

shall regulate the departures of merchant vessels in such a way as to avoid prolonging unnecessarily the sojourn of the warship.

ARTICLE 5

1. In Swedish ports or anchorages belligerent warships may repair damages only to the extent indispensable to the safety of their navigation, and they may not increase in any manner their military force. Damaged ships may procure no aid on Swedish territory for the repairing of damages manifestly caused by acts of war of the adversary. The competent Swedish authorities shall determine the nature of the repairs to be made. The repairs shall be made as rapidly as possible and within the time limit provided for by Article 4, paragraph 1.

2. Belligerent warships are prohibited to make use of Swedish ports or other Swedish territorial waters for renewing or augmenting their military provisions or their armament, or for completing their crews.

3. Belligerent warships may revictual in Swedish ports or anchorages only for completing their normal peace-time provisioning.

4. In Swedish ports and anchorages belligerent warships will be subjected, so far as concerns refueling, to the same regulations as other foreign vessels. They may take aboard, however, only the quantity of fuel necessary for reaching the nearest port of their own country, and in no case a quantity exceeding that necessary for completely filling their own bunkers or their liquid fuel tanks. After having taken on board fuel in one of the ports or anchorages of the Kingdom, they may not renew their provisioning in its ports and anchorages before the expiration of a period of three months.

ARTICLE 6

Belligerent warships are required to use in inner Swedish waters pilots licensed by the Kingdom, according to the same rules as those applied where they are to be applied to vessels of war in time of peace, but otherwise they may make use of the service of such a pilot only in case of distress to escape a peril of the sea.

ARTICLE 7

1. It is prohibited to bring prizes of foreign nationality into a Swedish port or anchorage, except in case of unseaworthiness, rough weather, shortage of fuel or provisions. Any prize brought into a Swedish port or anchorage for one of the above-mentioned causes must depart as soon as the cause thereof shall have ceased.

2. No prize court may be established by a belligerent either on Swedish territory or on a ship in Swedish territorial waters. The sale of prizes in a Swedish port or anchorage is equally prohibited.

ARTICLE 8

1. Military aircraft of the belligerents, with the exception of aërial ambulances and aërial transports on board warships, shall not be admitted into

Swedish territory, except when regulations to the contrary apply or may become applicable so far as certain spaces are concerned conformable to the general principles of international law.

In the Sound, the said aircraft may traverse without unnecessary stoppage the exterior territorial waters of Sweden, bounded as set forth in Article 2, paragraph 3, and the air-space thereabove. They will be required in passing to keep as far as possible from the coast.

2. Aircraft transported on board belligerent warships are prohibited to leave these ships so long as they are in Swedish territorial waters.

ARTICLE 9

1. Belligerent warships and military aircraft are required to respect the sovereign rights of the Kingdom and to abstain from all acts which would be contrary to its neutrality.

2. All acts of hostility are prohibited within the limits of Swedish territory, including arrest, visit and capture of vessels and of aircraft, whether neutral or belonging to the adversary. Any vessel or aircraft which may have been captured therein must be immediately released, together with its officers, crew and cargo.

ARTICLE 10

Existing sanitary, pilotage, customs, navigation, aërial movement, harbor and police regulations must be strictly observed.

ARTICLE 11

Belligerents are prohibited to make Swedish territory the base of military operations against their adversaries.

ARTICLE 12

1. Belligerents and persons in their service are prohibited to install or to operate in Swedish territory radiotelegraphic stations or any other apparatus destined to serve as a means of communication with the belligerent forces, whether military, naval or aërial.

2. Belligerents are prohibited to employ in Swedish territory their mobile radiotelegraphic stations, whether belonging or not to the combatant forces, for the sending of communications, except in case of distress or for corresponding with the Swedish authorities through the intermediary of a Swedish radiotelegraphic station, land or coastal, or via a radiotelegraphic station installed on board a vessel belonging to the Swedish Navy.

ARTICLE 13

It is prohibited to carry out in Swedish territory observations from an aircraft, or in any other manner, relating to the movements, operations or defense works of a belligerent with a view to informing the other belligerent.

ARTICLE 14

1. Belligerents are prohibited to establish fuel depots either on the soil of the Kingdom or on board vessels stationed in its territorial waters.

2. Vessels or aircraft obviously navigating with a view to supplying the combatant forces of the belligerents with fuel or other provisions are prohibited to take on such supplies in Swedish ports or anchorages exceeding in quantity that necessary for their own needs.

ARTICLE 15

1. The fitting out or arming on Swedish territory of any vessel destined to be employed to cruise or engage in operations of war against one of the belligerents is forbidden. Vessels intended to be used for one of the aforementioned purposes and which have been adapted, in whole or in part, in Swedish territory for use in war, are likewise forbidden to leave that territory.

2. Any aircraft in a condition to commit an attack against a belligerent, or which carries apparatus or material the mounting or utilization of which would permit it to commit an attack, is forbidden to leave Swedish territory if there is reason to presume that it is destined to be employed against a belligerent Power. It is likewise forbidden to perform work on an aircraft in order to prepare its departure for the above-mentioned purpose.

REPUBLIC OF ECUADOR

LAW ON ALIENS, EXTRADITION, AND NATURALIZATION

February 16, 1938

[Laws of the Republic No. 1]

[Translation][1]

GENERAL G. ALBERTO ENRÍQUEZ

Supreme Chief of the Republic

By virtue of the powers with which he is invested;

DECREES:

The following Law on Foreigners, Extradition, and Naturalization.

CHAPTER I

ON FOREIGNERS

Art. 1.—The territory of the Republic of Ecuador is open to all foreigners who wish to come to reside or domicile themselves in it, provided they fulfill the provisions of the present law.

[1] Supplied by the Department of State through the courtesy of the American Legation at Quito (Despatch No. 1059, March 8, 1938).

Art. 2.—The Executive Power will encourage the immigration of individuals and families who come with the purpose of working the land, establishing new industries, improving existing industries, or teaching the sciences and arts, in general, provided that it is a question of elements of progress.

Art. 3.—The Republic of Ecuador accepts and receives into its territory all human beings whose lives are in imminent danger, until such danger disappears, they being subject from the day of their entry to the control of the health, immigration, and police authorities.

Art. 4.—For all legal intents, in accordance with international law, the children of Ecuadorean diplomatic agents born abroad, born in ships of the state in any place, and born in Ecuadorean merchant ships on the high seas, are considered Ecuadoreans born in the territory of the Republic.

Art. 5.—For sojourn in Ecuador the following will be subject to special laws and regulations:

(a) Diplomatic envoys and consular agents accredited to the Government of Ecuador;

(b) Representatives of other countries who come to Ecuador on special missions, as well as the members of their families, employees, and suites who accompany them;

(c) Members of scientific missions duly accredited and whose entry has been permitted by the Executive Power;

(d) Foreign students who enter the country for the purpose of studying in Ecuadorean educational institutions;

(e) Men of science or the arts engaged by Ecuador for special investigations or teaching; and [*see amendment, p. 180, below*].

(f) Tourists.

Art. 6.—Chinese residents in Ecuador remain subject to all the laws and decrees which govern all foreigners, and therefore all the special decrees and regulations regarding Chinese are repealed with regard to residence, without, however, the law prohibiting Chinese immigration being repealed.

Art. 7.—All individuals to whom the Constitution of the Republic does not give the quality of Ecuadoreans, are considered foreigners in Ecuador.

Art. 8.—Foreigners are: domiciled and transients.

Art. 9.—Domiciled foreigners are those who, in an express way and by writing, declare before the competent authority their wish to reside in Ecuador, provided that by observing the procedure and fulfilling the conditions required by this Law, they obtain the respective permission for this purpose.

Art. 10.—The declaration of any express wish to domicile in Ecuador referred to in the preceding article, will be made before the Chief of Immigration and Alienage of the province to which the foreigner comes. If there is no such office in that province, it shall be made before the Chief of the nearest Immigration Office, and, lacking either, before the Chief of Immigration and Alienage of the Capital of the Republic.

When requests to domicile in the country are presented to any of the Offices of Immigration and Alienage of the provinces, these offices shall forward them

to the Central Office, which shall be the only one that may grant the authorization referred to in the preceding clauses, an authorization which will have a provisional character and may be made definitive only after one year and provided that the conditions required by this law have been fulfilled.

Art. 11.—A Register of Foreigners will be kept in the Central Office of Immigration and Alienage, in which will be noted the following:

(a) The Christian name, surname, and age of the foreigner;

(b) His origin and nationality;

(c) His profession or employment;

(d) His civil status;

(e) The statement of the activity in which he intends to engage;

(f) The statement of the capital which he brings into the country;

(g) Data necessary for his identification, number of his cedula and details of his passport;

(h) Place in the Republic in which he is going to domicile; and

(i) Other personal facts about the foreigner.

The preceding data will serve as a basis on which the Central Office of Immigration and Alienage may grant the permit for a foreigner to be domiciled in the place that he requests.

Art. 12.—Permission to domicile in Ecuador shall be granted only to foreigners who fulfill the following conditions:

(a) To possess a capital of not less than one thousand American dollars, which will be invested in agricultural works or in any industry approved by the Central Office of Immigration, taking into account that it be beneficial to the country; [*see amendment, p. 181, below*].

(b) To present all the documents which evince good conduct and useful activities formerly followed abroad; and

(c) Not to be included in any of the restrictions established by this law with respect to entry into Ecuador.

Art. 13.—Transient foreigners are those who enter Ecuador, without intention of residing here, and who fulfill in all cases the requirements of this law.

Transient foreigners may not remain in the territory of the Republic for more than ninety days, unless they become domiciled therein.

Art. 14.—The distinction between domiciled and transient foreigners, except for the provision of the preceding article, has no other effect than that the domiciled foreigners are governed, with respect to the enjoyment and exercise of their rights, by the legal system of domicile, in all cases where this is recognized by Ecuadorean legislation.

CHAPTER II

ADMISSION OF FOREIGNERS

Art. 15.—All foreigners, in order to enter Ecuador, will present to the authority determined in Article 10, passports viséd by the Ecuadorean consul at the place of departure, or lacking him, by the consul of a friendly nation.

The consul at the place of departure may not visé a passport without first requiring a certificate from the authorities of the place of residence of the foreigner with regard to his conduct and other personal conditions, and making sure, by every means in the case, that the foreigner can immigrate to Ecuador.

The immigration authorities will also be obliged, before permitting entry into Ecuador, to investigate the conduct of the foreigner and the other circumstances referred to in the preceding clause; and they will be liable to a fine of from five hundred to one thousand sucres in case of violation of the provisions of this article.

Art. 16.—All foreigners who wish to come to settle in the territory of Ecuador will expressly declare, before the consular officer who visés their passports, their intention of remaining in the country, and the nature or kind of activities in which they wish to engage. The declaration of this intention will be noted on the passport, duly verified by the consular officer giving the visa.

Art. 17.—In no case may a consular officer visé passports, nor may the immigration authority admit to Ecuadorean territory, foreigners who are included in one or more of the conditions set forth below:

(a) Persons expelled from another country for causes contemplated in this law;

(b) Insane, deranged, and idiots;

(c) Professional beggars;

(d) Vagrants;

(e) Persons with incurable or contagious diseases or diseases dangerous to the public health, according to the Sanitary Regulations;

(f) Persons who traffic in prostitution;

(g) Persons who have previously been expelled from Ecuador;

(h) Persons who have not been accepted by other countries, even if only suspects;

(i) Persons condemned abroad for common crimes, even if they have served their sentences or been pardoned;

(j) Persons who intend to engage in work or employment which might produce loss to or competition with Ecuadoreans, without giving useful or beneficial results to the country;

(k) Persons who cannot show the fully good conduct and personal conditions which would make them desirable to the country;

(l) Gypsies, of whatever nationality; and

(m) Persons who intend to carry on propaganda of political doctrines in Ecuador.

Art. 18.—Persons condemned or persecuted for political or religious offenses or for acts connected with such offenses, or persons who seek mere asylum in order to save their lives from imminent danger, are not included in the preceding list.

Art. 19.—It will be an essential requirement for the visa of a passport, that the person interested prove authentically that he belongs to no society or political party whose program is contrary to the public order of Ecuador or to the ideas on which the system of government is founded, maintained by the Constitution and the laws of the state.

Art. 20.—Minors of less than eighteen years travelling alone will not obtain a visa on their passports, unless it is proved that they come to Ecuador sent for by an authorized and responsible person. This proof will be given by means of a certificate from the Immigration Office of the province in which the person who sends for the minor resides, or in its absence, by a certificate from the Chief of the Central Office.

Visas will likewise not be given to women travelling alone, unless they can show that they have sufficient means to lead a decent life.

Art. 21.—In order to fulfill the requirements set forth in this law, the Ecuadorean consular officer will follow the probationary procedure which, in his judgment, seems most convenient and advisable.

Art. 22.—A foreigner coming to reside in the Republic, in order to comply with the provisions of letter (a) of Article 12 of this law, will submit the proof (*comprobación*) and fulfill the other orders of control given by the Central Office of Immigration and Alienage.

The following are not required to possess the amount of money indicated in letter (a) of the cited article:

(1) A foreign woman married to an Ecuadorean, their minor children, and persons legally dependent on one or the other;

(2) A woman married to a foreigner domiciled in Ecuador and their minor children;

(3) A wife and minor children of a foreigner who enters the country in compliance with the requirements of this law; and

(4) Individuals who belong to an agricultural firm contracted by Ecuador and who come to work in the territory of the Republic. [*See amendment, p. 181, below*].

Art. 23.—Captains of ships, companies, societies, firms, or individuals, who bring foreigners into the country in violation of one or more of the provisions of this law, are obliged to take them out of the country, and in addition will be punished by a fine of from one thousand to five thousand sucres.

If the person responsible is an Ecuadorean public employee, he will lose his civil rights for two years, in addition to paying the said fine.

If the person who commits the offense has a colonization contract with the Government, he will pay double the amount of the maximum fine established.

Chapter III

Rights and duties of foreigners

Art. 24.—Foreigners, whatever their class may be, enjoy in Ecuador, in accordance with the Constitution and the laws, the same civil rights which

belong to nationals and the guaranties accorded by the Constitution, except those which are granted exclusively to Ecuadoreans.

The enjoyment of the civil rights granted to foreigners by this article likewise does not extend to privileges which the Ecuadorean laws confer exclusively on nationals and to the differences which, with respect to the enjoyment of the same rights, are established between transient and domiciled persons.

Art. 25.—Domiciled foreigners may serve as honorary consuls of Ecuador.

Art. 26.—Foreigners, by the act of coming to the country, subject themselves to the Ecuadorean laws without any exception. They are consequently subject to the Constitution, laws, jurisdiction, and police of the Republic, and may in no case, nor for any reason, avail themselves of their status as foreigners against the said Constitution, laws, jurisdiction, and police.

Art. 27.—Foreigners are subject in Ecuador to the same obligations as Ecuadoreans, except those of military service and those from which they are exempt by treaties, or lacking them, by international law. They are likewise not obliged to render services for reasons of war, but in cases of international armed conflict or internal disturbance, foreigners, like Ecuadoreans, are subject to the laws of safety, police, and public order, with the exceptions stipulated in treaties.

Art. 28.—Foreigners who participate in civil dissensions of the state, rebellion, sedition, mutiny, or civil war, or who assist or promote by deeds, words, or writing, international trouble with serious danger to the conservation of the state, lose their right to the exceptions which the laws grant them as foreigners and may be expelled from the country under the provisions of the present law. Their expulsion, however, does not relieve them of penal liability in the same form and kind as that of nationals.

Art. 29.—Persons, property, rights, and lawsuits of foreigners are protected by the same judges, courts, and authorities who protect Ecuadorean nationals, with the exception of cases when, on account of certain positions held by foreigners, they have the right to special exemption in conformity with the laws and international law.

Art. 30.—Contracts concluded between the Ecuadorean Government and foreign persons, either individuals or firms of any kind, are subject to the laws of Ecuador, and the rights and obligations deriving from said contracts will be subject to the exclusive jurisdiction of the national judges and courts.

Art. 31.—The renunciation of diplomatic claims will be an implicit and essential condition of all contracts concluded by foreigners with the state, or of all contracts obligating the state or individuals to foreigners, or of all contracts whose effects should be felt in Ecuador.

Foreigners who have been employed or carried out a commission subjecting them to the Ecuadorean laws and authorities may not claim indemnification through diplomatic channels.

Art. 32.—Domiciled foreigners have free recourse to the courts of justice of the Republic, but if they are transients and wish to bring a case as plaintiffs

they must deposit bailbond, the amount of which will be determined in each case by the judge who tries the lawsuit. Foreigners may have recourse with respect to sentences of Ecuadorean courts to the same appeals as those established by the laws of Ecuador for Ecuadoreans.

Art. 33.—Ecuador is responsible only for the voluntary and premeditated acts of the legitimate public powers. Consequently foreigners who believe themselves prejudiced by war, mutiny, or sedition, etc., may not request indemnification, except in cases where Ecuadoreans can do so and with the formalities to which they are subject.

Foreigners, like nationals, may not seek any indemnification from the state for injuries or damages caused by the enemy in international war, or caused by those who are fighting the Government in civil war; or by the leaders of riots or mutinies, or those who participate in said riots or mutinies, nor for those (injuries) which in the same cases, are caused by the Government as a result of military operations and the inevitable consequences of war.

Art. 34.—The state is likewise not responsible for damages and injuries on account of stoppage of profits or losses therefrom due to measures of safety which the Government may take with respect to the persons of foreigners by restraining their liberty when the national safety or public order requires them in accordance with the laws.

Art. 35.—Foreigners are prohibited from associating in order to engage in internal or external political affairs, to exercise the right of petition in this matter, and mix in popular elections or prepare them. According to the degree of culpability in these matters, the Executive Power may proceed to denounce before the competent judge a foreigner who has made himself guilty, in order that he may be tried, or, in his judgment, he may proceed to expel him from the territory of the Republic.

Art. 36.—A foreigner who exercises electoral functions or who holds a position, office, or appointment which carries political authority or jurisdiction within the Republic, likewise loses all rights to the exemptions recognized by this law, and the same responsibility will be required of him as from nationals.

Chapter IV

EXPULSION

Art. 37.—The Government may oblige foreigners to leave the country who have entered it in violation of one or more of the provisions established in this law, or when the violation is subsequent to their entry; and in general all those whose residence in Ecuador constitutes a danger to morality, public order, and good habits, according to the regulations which govern the expulsion of foreigners.

Art. 38.—Especially, the Government may expel from its territory all foreigners who come under one of the following cases:

(1) Delinquents, even when they have served their sentence;

(2) Common delinquents who, on account of having committed offenses abroad, cannot be tried in Ecuador because of lack of jurisdiction of its judges;

(3) Foreigners who violate the laws regulating the traffic in opium and other narcotics; and

(4) Foreigners who are not useful to the progress of the country, on account of lack of ability, industry, or economic means, in the opinion of the competent authority.

Art. 39.—In order to proceed to expulsion, the police authorities, officially or by private denunciation, will state in the form of an indictment the culpability of the foreigner, and will submit the whole case to the Minister of Government, who, if he finds the reasons for expulsion sound, will issue the respective authorization and communicate it to the Foreign Office.

The proceedings will be affected, in all cases, with a summons to the foreigner, who may make whatever defense he considers advisable before the authority which initiated the proceedings. The defense will be considered and judged by the Minister of Government.

Art. 40.—Expulsion having been ordered, the police authority indicated by the Minister of Government will proceed to expel from the territory the foreigner in question, within a period of not more than fifteen days, counted from the date on which the foreigner was notified with the order of expulsion.

Art. 41.—A foreigner rejected by the immigration authority charged with supervising expulsion, may, verbally or in writing, appeal to the first political authority of the place, who, as soon as possible, will pass upon the said petition.

Art. 42.—The Executive Power may declare void an order of expulsion if the reasons that caused it have disappeared, in which case the foreigner may return to the country.

CHAPTER V

INTERNMENT

Art. 43.—In order that the Ecuadorean Government may maintain the strictest neutrality in the domestic political affairs which occur between neighbor countries, the Minister of Government, at the request of the interested state, made to the Foreign Office, may remove from the frontier, by means of an order, foreigners and nationals who for good reasons were the subject of the request.

If the Foreign Office considers the said request to be well founded, it will immediately ask the Minister of Government to issue the order. In the contrary case, it will reject the petition and confirm that the sojourn in such and such a place on the frontier by the foreigners and nationals in question does not in any case affect the neutrality of the Ecuadorean state and that it guarantees such neutrality.

Art. 44.—In the same manner, the Government of Ecuador may intern

individuals who belong to any belligerent factions of neighbor countries, provided that the internment contributes to preserve and guarantee the most perfect neutrality of Ecuador in the matter.

CHAPTER VI

EXTRADITION

Art. 45.—Extradition, as an institution of international law, will be regulated by treaties concluded between Ecuador and the other states; and in the absence of such treaties, in conformity with the provisions of the present law.

Art. 46.—A request for extradition, as regards the appreciation of its origin and procedure, as well as the admission and qualification of the defense, etc., will be subject in everything not contrary to the provisions of the present law, to the decision of the Ecuadorean authority.

Art. 47—Ecuador will grant the extradition of individuals who have committed crimes or common offenses in foreign territory, when the following requirements are met:

(1) That the requesting state have jurisdiction to try and judge the act or omission in question;

(2) That the individual requested has been accused or condemned as the perpetrator, accomplice, or concealer, of an infringement of the penal law, punished both in the requesting country as well as in Ecuador by a penalty of not less than one year of imprisonment;

(3) That the requesting state present the documentation which, in conformity with its laws, shows that the infringement in question is a case for extradition;

(4) That the sentence or the punishment has not been prescribed prior to the capture of the accused, and is in accordance with the laws of either of the two countries;

(5) That the fugitive, if he has already been condemned, has not completed his sentence;

(6) That the act or omission of which the fugitive is accused, not be considered a political offense or connected with such an offense, a purely military offense or an offense against religion, according to the qualification of the Ecuadorean laws. The assassination or homicide, consummated, frustrated, or attempted, of the Chief of State, is not considered a political offense or an act in connection with a political offense;

(7) That the requesting country agree in the request:

(a) Not to apply the death penalty to the fugitive if that corresponds to the crime of which he is accused, but only the immediately lower penalty;

(b) Not to make the fugitive responsible nor try him for other offenses not set forth in the request for extradition;

(c) Not to subject the fugitive to special courts or proceedings;

(d) Not to deliver the fugitive to a third country requesting his extradition, without the consent of Ecuador; and

(e) Reciprocity.

As exceptions to the provisions of letter (b) of this article are cases in which the fugitive voluntarily recognizes the jurisdiction of the judges of the requesting country with regard to other offenses; or in which he does not leave the place where he is tried within the period fixed by the said judges or their laws; or in which he returns to that place after having left it.

On the assumption of connected offenses, the existence of such must be founded on the same proofs as the request for extradition, in order that they may be tried.

Art. 48.—If the offense was committed outside of the territory of the requesting state, notwithstanding that which has jurisdiction to try and punish it, Ecuador will grant extradition if the act or omission constitutes a crime or offense in the country where it was committed and is likewise in conformity with the Ecuadorean penal law.

Art. 49.—Extradition will not be granted when the subject demanded has already been tried in Ecuador or has been sentenced or freed for the same act.

Moreover, if the fugitive is on trial in Ecuador for an act or omission different from that for which extradition is requested, or if for the same reason he is serving a sentence, extradition will be granted in order to effect the delivery of the fugitive as soon as the requirements of the Ecuadorean penal law have been satisfied, when the corresponding notice will be given to the requesting country.

Art. 50.—Ecuador is not obliged to grant extradition of its nationals, excepting in cases where the acquisition of Ecuadorean nationality took place subsequent to the commission of the offense or was obtained to avoid extradition. In these cases the individual in question will have no right to allege his status as an Ecuadorean national to procure a denial of his delivery.

Nationals whose extradition has been denied by Ecuador will be tried in the Republic if the act of which they are accused is punishable in conformity with its laws, and a copy of the judgment of the trial will be sent to the country or countries which had requested extradition.

Art. 51.—Civil obligations contracted by the fugitive in Ecuador will not be an obstacle to granting extradition.

Art. 52.—When several states request the extradition of the same individual and it is judged that all of them have a right to request it in conformity with the provisions of this law, the following rules will be observed:

(1) If among the several requesting states there is one with which Ecuador has signed an extradition treaty that is in force, the extradition will be granted to the latter and will be regulated by the terms of the treaty;

(2) If extradition is requested by two or more states with which Ecuador has signed treaties which are in force, extradition will be to the one whose request was made first, according to the evidence of its reception.

(3) If none of the requesting states comes under the preceding rule, preference will be given to that one in whose territory the most serious offense was

committed. The seriousness of the offense will be judged according to the criterion of Ecuadorean penal law;

(4) If, in the case of the preceding rule, the offenses are of equal gravity, preference will be given to the country to which the fugitive belongs; and

(5) If a situation not contemplated by the preceding rules occurs, preference will be given to the country whose request for extradition has priority, according to the evidence of its reception. If requests are simultaneous, the Ecuadorean authority will decide on the preference to be given for the extradition.

Art. 53.—Extradition will be requested by diplomatic agents accredited in Ecuador and, lacking them, by the consuls, or, directly by government to government.

Art. 54.—The request for extradition will be accompanied with the following documents or others equivalent to them in accordance with the laws thereon in the requesting country:

(1) Certified copy of the verdict of condemnation, if a trial has taken place, as well as a certificate, also authenticated, to the effect that the offender has been summoned and represented at the trial or declared legally in default. In case of an accused person, an authentic copy of the chief proceedings of the case, of the order of arrest, and of the pieces of evidence which go to prove the commission of the offense;

(2) Authenticated certificate of the jurisdiction of the judge or judges who participated in the inchoate and continued trial against the fugitive, for whom the request is made;

(3) Data necessary to establish the identity of the person whose extradition is requested;

(4) Authenticated copy of the penal provision applicable to the offense which caused the request.

Both the request and the documents referred to in the numbered clauses of the present article, which must be written, will be transmitted in the Spanish language.

Art. 55.—Upon presentation of the request to the Minister for Foreign Affairs, he will ascertain whether it fulfills the requirements set forth in Articles 47 and 54 of this law.

If the Minister considers that one or several of the requirements established in Article 54 are not fulfilled, he will order at the bottom of the request that it be returned for completion.

Art. 56.—If the Minister for Foreign Affairs considers that the requirements have been fulfilled in the manner set forth in Article 54, he will transmit the file to the Minister of Justice who, immediately after the discovery of the domicile or residence of the fugitive, will forward it to the first criminal judge of the respective province.

The criminal judge, within twenty-four hours after receiving the file, will order his secretary to summon the fugitive to defend himself. The summons

will be made in the form established by the Code of Penal Procedure, being the first writ (*auto cabeza*) of the case. In the same measure, the judge will order a special guard over the fugitive by the appropriate authority and give the corresponding orders which will be immediately carried out by the police authorities.

After the summons has been made, the fugitive will have a period of five days in which to enter denials, which may not be other than the lack of one or several of the requirements, in substance or in form, set forth in Articles 47 and 54, respectively.

In this judicial proceeding, the prosecutor of the respective judicature will act as a party.

After the denials have been entered, or by default, and if the fugitive or the prosecutor requests it, a probatory period not exceeding fifteen days will be accorded, upon the expiration of which the prosecutor and the fugitive will argue the case, within three days for both together.

After the arguments have been presented, or without them if they have not been presented within the legal period, the judge, within three days, will make a report on the entire substance of the case and, through the medium of the Governor's Office of the province, will forward the proceedings to the Ministry of Government, leaving in his office an authenticated copy of the proceedings.

The Minister of Government will forward the case to the Minister for Foreign Affairs. If the request is judged to be well founded, the Executive will grant the delivery (of the fugitive) by means of an order which will be communicated to the Minister of Police for fulfillment.

Extradition having been granted, the information will be communicated to the requesting country by means of a note addressed to its diplomatic agent, consul, or government, as the case may be.

Art. 57.—In cases of urgency and at a telegraphic request made through diplomatic channels by the requesting state, the provisional arrest of the fugitive may be ordered before the request for extradition is presented.

The state which requests the provisional arrest will have all responsibility which might arise from the act.

In case of the provisional detention contemplated in this article, the state requesting it has a period of two months, counted from the day on which the arrest of the fugitive is communicated to it, in which to present the request for extradition. If it is not sent, the arrest will cease and the fugitive will be immediately released.

Art. 58.—After extradition has been granted, the fugitive cannot be detained, except upon the petition of the requesting state, and, in no case, for a period of more than three months counted from the day on which Ecuador put the fugitive at the disposition of the said state.

Art. 59.—If the fugitive has been arrested and the documents have been returned to the requesting country in the case contemplated in clause 2 of Article 55, the period established in the preceding article will be extended by

two months, counting the extension from the day on which the request was returned.

After the period of five months has expired, the fugitive will be released if the request for extradition has not been returned in legal form.

Art. 60.—When a request for extradition has been granted and the arrest of the fugitive has been ordered at the petition of the requesting country, the Ministry of Foreign Affairs will put the fugitive at the disposition of the said country, and the police authorities will escort him to the frontier or the Ecuadorean port where his delivery to the agents of the requesting country should be effected.

Art. 61.—A request for extradition will be considered abandoned if within three months after the fugitive has been placed at the disposition of the requesting country, extradition having been granted, the said country has not taken the measures necessary for taking over the fugitive, and all new requests by the same state with regard to the same individual and for the same cause, will be refused.

Art. 62.—However, when a fugitive who was preventively arrested has been released because the requesting state did not present the request in accordance with the provisions of this law, or when the request sent by Ecuador by virtue of the provisions of clause 2 of Article 55 has not been returned, a new request for extradition may be made. But in such cases the provisional arrest of the wanted person cannot be made.

Art. 63.—An individual preventively arrested may give bail if he can do so in conformity with Ecuadorean laws.

Art. 64.—There will be taken and delivered together with the fugitive or subsequently, all objects found in his possession, deposited or hidden in the territory of the state, which might have served for the commission of the act for which extradition was requested or which might have been obtained through it. The same applies to such objects as might serve as proofs for conviction.

Such objects will be delivered even if through death or flight of the fugitive their delivery cannot be legalized.

Art. 65.—Articles found in the possession of third persons or articles found in the hands of the fugitive and belonging to other persons and which come under the first clause of the preceding article, will not be forwarded until the said third persons have been heard and a decision has been made with regard to the objections or mediation (*tercería*) pleaded.

Such objections or mediations will be presented to the criminal judge who tried or is trying the principal case, during its proceedings or afterwards. In the latter case they will not be accepted if thirty days have elapsed, counted from the date on which the case was begun in the government office of the province.

If the objections were raised during the proceedings, the judge will report on them at the same time as he reports on the extradition case, and the au-

thority which grants or denies the extradition will decide whether the articles shall be delivered or not.

In case objections are raised after the proceedings have been forwarded and within the period indicated in the second clause of this article, the judge, taking as a basis the copy of the full proceedings already drafted, will hear the objections, giving a reasonable period, which in no case will exceed fifteen days, after the expiration of which he will issue a report, and submit the new proceedings in the form already established in order that the matter may be decided by the same authority indicated in the preceding clause.

Art. 66.—The passage of an individual through Ecuadorean territory, delivered by one state to another by virtue of a formal extradition, will be permitted without other formalities than a request from the requesting country to Ecuador through diplomatic channels and the presentation, in original or certified copy, of the agreement by which the country of refuge grants the extradition.

Chapter VII

NATURALIZATION

Art. 67.—Naturalization is a sovereign act at the discretion of the Executive Power, which will grant it to foreigners who have entered the territory of the Republic in conformity with the requirements established by the Constitution and this law, and who, moreover, submit themselves to the following provisions.

Art. 68.—By means of naturalization, foreigners obtain Ecuadorean nationality and enjoy the rights and are subject to the obligations which belong to native nationals, with the sole exceptions established by the Constitution and laws of the Republic.

Art. 69.—For the purposes of the present law, naturalization is divided into individual and collective, and both require the fulfillment of the formalities established in the other articles of this law.

Art. 70.—Individual naturalization is granted to free persons who do not depend legally on others and who are capable of fulfilling the obligations imposed by citizenship.

Art. 71.—Foreigners are eligible for naturalization in Ecuador who are not included in the supervenient disqualifications established in Article 78 or in those contemplated in Article 1 of Legislative Decree of October 12, 1899, and who, in addition, prove:

(1) That they have a profession, industry, or employment, capable of giving them an income of not less than two hundred sucres per month;

In case of foreign merchants, it will be in the judgment of the Foreign Office whether to grant or deny naturalization, taking into account the statistical data which gives, in a trustworthy manner, the percentage of foreign merchants settled in Ecuador and the relation between supply and demand of merchandise in the country;

(2) That they have resided two continuous years in Ecuadorean territory and are twenty-one years of age;

(3) That they have conducted themselves absolutely honorably during the said period of residence; and

(4) That they have a sufficient knowledge of the Spanish language.

Art. 72.—Naturalization papers will not be given to citizens of a state with which Ecuador is at war, nor to persons who have already been naturalized in another country, nor to those who are reputed or judicially declared, outside the country, to be perpetrators or abettors of a crime or common offense; and in case they are suspected of such, the interested persons must present proofs that the suspicions are unfounded.

Art. 73.—Interested persons will submit to the Ministry of Foreign Affairs, through the government of the province under whose jurisdiction they reside, a petition requesting naturalization, accompanied by the documents evincing the facts established by this law in order to grant it.

In addition, the applicant will accompany them by a certificate which shows that by the act of naturalizing himself in another country he loses his native nationality; or, in his case, evidence that the renunciation of the said nationality has taken place in conformity with the foreign law of renunciation in one of the ways considered valid for losing native nationality.

These proofs will consist in the presentation of the foreign law, authenticated in due form, a certificate from the diplomatic or consular representative of the foreign country in Ecuador or from the Ecuadorean legation or consulate accredited in the foreign country. In case there is no diplomatic or consular representation of Ecuador, it will be sufficient that the certificate is signed by a diplomatic or consular agent of any category of the native country of the applicant accredited to a friendly nation in which there is an Ecuadorean representation which can legalize the document.

Art. 74.—If the foreign law prohibits the renunciation of native nationality and establishes one or several requirements to lose it, naturalization papers may not be requested in Ecuador without complying with the said requirements.

Art. 75.—The documents referred to in Article 73 of this law and the proofs established therein will be sent to the Ministry of Foreign Affairs. The Governor of the province must enclose a confidential memorandum in which he sets forth the antecedents, conduct, mode of life, habits, etc., of the applicant, and in which he states, in addition, whether the requirements established by law have been fulfilled.

Art. 76.—The Executive Power will give the applicant a certificate of acceptance, if all the legal formalities have been fulfilled. This certificate will be exchanged for naturalization papers within one year from the date of the certificate of acceptance, if, in the judgment of the Executive Power, the foreigner has been worthy of Ecuadorean nationality. The certificate of acceptance does not give a right to this nationality but only the expectation of acquiring it.

The naturalization papers will be delivered to the applicant through the respective Governor, who will draw up a document upon delivering it, containing the (applicant's) oath of renunciation of all other political ties and his express decision of allegiance and fidelity to the Constitution and laws of the Republic. They will take effect from the date of their inscription in the Book of Naturalization of the Foreign Office and in the Civil Register of the Direction General.

Art. 77.—If the foreigner who wishes to become naturalized in Ecuador has lost, for any reason, his native nationality in conformity with its law, he will present this law, authenticated, at the time of requesting his naturalization papers; and, therefore, in the document there will be given only his oath of fidelity and allegiance to the Constitution and laws of the Republic.

Art. 78.—Naturalization thus granted will be revocable by the Executive Power for the following supervenient reasons:

(1) When it is proved that the foreigner naturalized in Ecuador is carrying on the propaganda of ideas contrary to the public order;

(2) When it is likewise proved that the said foreigner is engaged directly or indirectly in the traffic of prohibited alkaloids or drugs;

(3) When he has been sentenced to extraordinary long or short imprisonment; and

(4) Naturalization will be revoked in general when it has been obtained by fraud of the law.

Art. 79.—Naturalization will be revoked *ipso jure* in all cases in which the naturalized foreigner returns to his native country to settle down there for more than two years; and this occurs even if the law of the country of origin gives or does not give the sojourn the effect of reacquisition of original nationality.

It will also be revoked if the person naturalized in Ecuador settles in another country for a period of more than two years.

Art. 80.—The revocation of a naturalization is not incompatible with penalties which, in conformity with the national laws, may be imposed by judges and courts on offenders against penal legislation.

Art. 81.—The Minister for Foreign Affairs has the duty of taking note of denunciations against naturalized foreigners and considering the evidence presented with a view to revoking their naturalization.

Denunciations and evidence pertaining thereto will be presented to the respective Governors and they, in turn, will forward them to the Foreign Office.

The Foreign Office may revoke a naturalization in a definitive or a provisional way, by a decree, the date of which will be noted on the margin of the Register of the Foreign Office and on that of the Civil Register of the Direction General.

Art. 82.—The revocation of a naturalization constitutes *ipso jure* a cause for expulsion of a foreigner in all cases in which the foreigner is residing in

Ecuador, even after the fulfillment of the punishment to which he has been condemned by judicial sentence.

Art. 83.—Collective naturalization is extended to minor children born abroad who, designated in the petition, become naturalized through the naturalization of the head of the family. Upon reaching majority of age, the children may elect their native nationality or retain Ecuadorean nationality. It will be understood that they retain the latter nationality if, after the expiration of one year from the date on which they reach their majority, they have not elected their native nationality.

Art. 84.—If in conformity with the law on the nationalization of women, the naturalization of the husband does not make a woman lose her native nationality, it will be necessary for the applicant to show in his petition that his wife has renounced her native nationality, accompanying it with trustworthy proofs of the said renunciation if such be authorized by the law on women; or, as the case may be, for the applicant to accompany the petition with proofs that his wife has fulfilled the requirements of the law of her native country to lose her nationality.

Art. 85.—An Ecuadorean woman who marries a foreigner loses her nationality, if this loss is provided for under the law of her husband and if the couple has its domicile within or outside of the territory of the Republic.

Art. 86.—If in conformity with the law of her husband, an Ecuadorean woman does not lose her native nationality, she will always be considered an Ecuadorean, whether she resides within or outside the country.

Art. 87.—Divorce or death of a foreign husband restores to his wife her Ecuadorean nationality, but if she is residing abroad she must make a declaration duly authenticated before an Ecuadorean diplomatic or consular Agent, and a copy of the said declaration will be sent to the Foreign Office for the purpose of inscription in the Book of Nationalization and in the Civil Register of the Direction.

Art. 88.—For the purposes of the right of option by children who reach their majority, there will be kept in the Foreign Office a special register in which will be inscribed, in chronological order, the options of Ecuadorean nationality effected in an express manner, or tacitly during the course of a year from the date of reaching majority.

Art. 89.—In general, an Ecuadorean naturalized abroad will be considered as an Ecuadorean by his returning to Ecuador and establishing his domicile here, without his being able to avail himself of his foreign naturalization to claim rights, privileges, or exemptions, based on that status.

Art. 90.—Diplomatic and consular agents of Ecuador abroad have the duty of notifying the Foreign Office of naturalizations of Ecuadoreans in other states, stating the effect which, in conformity with the various laws, the naturalization has with respect to the native nationality, in order that the inscriptions in the registers referred to in the preceding articles may be appropriately changed.

GENERAL AND TRANSITORY PROVISIONS

Art. 91.—Foreigners, domiciled or transient, will, moreover, fulfill all the obligations imposed by the Regulations on Immigration and Foreigners.

Art. 92.—Counting from the date on which this law goes into force, a period of sixty days will be granted for all foreigners now in the country, whether or not they are domiciled, to become domiciled in the Republic, fulfilling at the Central Office of Immigration and Alienage the requirements provided by the present law for this purpose. [*See amendment, p. 181, below.*]

Foreigners who do not become domiciled within that period, must leave the country, at latest thirty days after the expiration of the period granted in the preceding article.

Art. 93.—All laws in opposition to the present law are repealed. This law will go into force on February 21, 1938, and only editions thereof bearing the facsimile signature of the Minister of Justice will be considered authentic.

Given in the National Palace in Quito on February 16, 1938.

G. A. ENRÍQUEZ
Supreme Chief of the Republic

J. QUINTANA
Minister of Government

LUIS BOSSANO
Minister for Foreign Affairs

A true copy: N. A. MALDONADO T.,
Under Secretary of Government

DECREE AMENDING THE LAW ON ALIENS, EXTRADITION, AND NATURALIZATION[1]

March 24, 1938

[Translation]

GENERAL G. ALBERTO ENRÍQUEZ

Supreme Chief of the Republic

By virtue of the powers with which he is invested;

DECREES:

The following reforms of the Law on Aliens, Extradition, and Naturalization, promulgated on February 16 of this year:

Art. 1.—Letter (e) of Article 5 shall read "Men of science or of art engaged by the state or other institutions of public Law, as technical experts or for special investigations or for teaching. Technical experts engaged by institutions of private law or by firms legally established in the country, provided that they prove to the Ministry of Foreign Affairs their fitness and their professional ability, and if in the judgment of the Ministry of Government entry into Ecuador is necessary; and,"

[1] Published in the press, March 25, 1938, and transmitted with Despatch No. 1079 of March 29, 1938, from the American Legation, Quito.

Art. 2.—Letter (a) of Article 12 instead of "one thousand American dollars" shall read: "four hundred American dollars."

Art. 3.—Number 4 of Article 22 shall read "To individuals engaged by the state for agricultural, industrial, or mining enterprises of the country."

Art. 4.—The first clause of Article 92 shall read: "Counting from February 21 of this year, the date on which this law went into force, a period of sixty days will be given for all foreigners now in the country, whether domiciled or not, to proceed to become domiciled in the Republic, in the form established in this Law, without being obliged to fulfill other conditions than the proof of having fulfilled the conditions required by the laws and regulations in force at the time of their entry into Ecuador, without prejudice to the fact that the competent authority may refuse to domicile them, if they have committed one or more of the acts set forth in Article 38 of this law."

Art. 5.—The Ministers of Government, Justice, etc., and Foreign Affairs, shall see to the execution of this decree.

Given in the National Palace at Quito on March 24, 1938.

G. A. ENRÍQUEZ

Colonel J. QUINTANA
Minister of Government, Justice, etc.
LUIS BOSSANO
Minister for Foreign Affairs

MEXICO—UNITED STATES

EXPROPRIATION BY MEXICO OF AGRARIAN PROPERTIES OWNED BY AMERICAN CITIZENS

The Secretary of State of the United States to the Mexican Ambassador at Washington [1]

DEPARTMENT OF STATE
WASHINGTON

July 21, 1938.

His Excellency
Señor Dr. DON FRANCISCO CASTILLO NÁJERA,
Mexican Ambassador.

Excellency:

During recent years the Government of the United States has upon repeated occasions made representations to the Government of Mexico with regard to the continuing expropriation by Your Excellency's Government of agrarian properties owned by American citizens, without adequate, effective and prompt compensation being made therefor.

In extenuation of such action, the Mexican Government both in its official correspondence and in its public pronouncements has adverted to the fact that

[1] Department of State Press Release, No. 354, July 21, 1938.

it is earnestly endeavoring to carry forward a program for the social betterment of the masses of its people.

The purposes of this program, however desirable they may be, are entirely unrelated to and apart from the real issue under discussion between our two Governments. The issue is not whether Mexico should pursue social and economic policies designed to improve the standard of living of its people. The issue is whether in pursuing them the property of American nationals may be taken by the Mexican Government without making prompt payment of just compensation to the owner in accordance with the universally recognized rules of law and equity.

My Government has frequently asserted the right of all countries freely to determine their own social, agrarian and industrial problems. This right includes the sovereign right of any government to expropriate private property within its borders in furtherance of public purposes. The Government of the United States has itself been very actively pursuing a program of social betterment. For example it has undertaken to improve the share of the farmer in the national income, to provide better housing, the wider use of electric power at reasonable rates, and security against old age and unemployment, to expand foreign trade through reduction of trade barriers, to prevent exploitation of labor through excessive hours and inadequate pay, to protect debtors from oppression, to curb monopolies; in short it is carrying out the most far-reaching program for the improvement of the general standard of living that this country has ever seen. Under this program it has expropriated from foreigners as well as its own citizens properties of various kinds, such as submarginal and eroded lands to be retired from farming, slums to be cleared for housing projects, land for power dams, lands containing resources to be preserved for government use. In each and every case the Government of the United States has scrupulously observed the universally recognized principle of compensation and has reimbursed promptly and in cash the owners of the properties that have been expropriated.

Since the right of compensation is unquestioned under international law, it cannot be conceived that insistence on it by this Government should impair in any way the warm friendship which exists between the Government of Mexico and our own, and between the people of Mexico and our own. This is particularly true because we have, in fact, pursued a constantly expanding program of financial, economic and moral coöperation. We have been mutually helpful to each other, and this Government is most desirous, in keeping with the good neighbor policy which it has been carrying forward during the last five years, to continue to coöperate with the Mexican Government in every mutually desirable and advantageous way.

One of the greatest services we can render is to pursue, and to urge others to pursue, a policy of fair dealing and fair play based on law and justice. Just as within our own borders we strive to prevent exploitation of debtors by powerful creditors and to protect the common man in making an honest liv-

ing, so we are justified in accordance with recognized international law in striving to prevent unfair or oppressive treatment of our people in other countries. It is the experience of this hemisphere, and this Government is convinced, that only by these means can the conditions of the peoples in all countries be soundly and permanently improved. Certainly the destruction of underlying principles of law and equity does not conduce to such improvement.

In its negotiations with the Mexican Government for compensation for the lands of American citizens that have been expropriated, my Government has consistently maintained the principle of compensation. That it has been no party to an unjust or unreasonable use of the doctrine is demonstrated by the following record.

Agrarian expropriations began in Mexico in 1915. Up to August 30, 1927, 161 moderate sized properties of American citizens had been taken. The claims arising therefrom were after much discussion referred to the General Claims Commission established by agreement between the two Governments. It is appropriate to point out, however, that, as yet, and for whatever the reasons may be, not a single claim has been adjusted and none has been paid. The owners of these properties notwithstanding the repeated requests of this Government for settlement, lost their property, its use and proceeds, from eleven years to more than twenty years ago, and are still seeking redress.

Subsequent to 1927, additional properties, chiefly farms of a moderate size, with a value claimed by their owners of $10,132,388, have been expropriated by the Mexican Government. This figure does not include the large land grants frequently mentioned in the press. It refers to the moderate sized holdings which rendered only a modest living. None of them as yet has been paid for. Considering that expropriation was the free act of the Mexican Government and the liability was voluntarily incurred by it, certainly on the basis of the record above stated, the United States Government cannot be accused of being unreasonable or impatient.

This latter group of cases has been in the past few years the subject of frequent representations by my Government. On March 27 of this year, it inquired of your Government what specific action with respect to payment was contemplated. On April 19 the Mexican Government responded, expressing its willingness to make a small monthly payment as settlement for a small number of agrarian claims of American nationals in one locality in Mexico. In response to an inquiry for further information you reiterated to this Department, on May 26 last, substantially what the Government of Mexico had already stated. On June 29 a detailed communication was addressed to you, setting forth the amount of the claims advanced for compensation to American nationals for agrarian properties expropriated, containing suggestions as to how the value of these properties might be determined in a manner satisfactory to both Governments, and requesting that payments be

commenced while the determination of value was being reached. On July 15 Your Excellency sent a further communication to this Government in which no reference whatever was made to the suggestions advanced as to the method of determining the amounts owing for compensation, offering no indication that the Government of Mexico is prepared to make payments while the amount of the value of the properties expropriated is being determined, and stating that the Government of Mexico "has not contemplated covering entirely, during the present presidential term, the amount of the properties expropriated; much less has it undertaken, nor can it undertake, to proceed in such manner." In result, the American owners whose properties have been taken, are left not only without present payment, but without assurance that payment will be made within any forseeable time.

The taking of property without compensation is not expropriation. It is confiscation. It is no less confiscation because there may be an expressed intent to pay at some time in the future.

If it were permissible for a government to take the private property of the citizens of other countries and pay for it as and when, in the judgment of that government, its economic circumstances and its local legislation may perhaps permit, the safeguards which the constitutions of most countries and established international law have sought to provide would be illusory. Governments would be free to take property far beyond their ability or willingness to pay, and the owners thereof would be without recourse. We cannot question the right of a foreign government to treat its own nationals in this fashion if it so desires. This is a matter of domestic concern. But we cannot admit that a foreign government may take the property of American nationals in disregard of the rule of compensation under international law. Nor can we admit that any government unilaterally and through its municipal legislation can, as in this instant case, nullify this universally accepted principle of international law, based as it is on reason, equity and justice.

The representations which this Government has made to the Government of Mexico have been undertaken with entire friendliness and good will, and the Mexican Government has recognized that fact. We are entirely sympathetic to the desires of the Mexican Government for the social betterment of its people. We cannot accept the idea, however, that these plans can be carried forward at the expense of our citizens, any more than we would feel justified in carrying forward our plans for our own social betterment at the expense of citizens of Mexico.

The good neighbor policy can only be based on mutual respect by both governments of the rights of each and of the rights of the citizens of each. President Roosevelt could not have spoken more truly than when he recently stated that the good neighbor policy is

> a policy which can never be merely unilateral. In stressing it the American Republics appreciate, I am confident, that it is bilateral and multilateral and that the fair dealing which it implies must be reciprocated.

The Government of Mexico from the standpoint of the long run and healthy progress of the Mexican people should be just as vitally interested in maintaining the integrity of the good neighbor policy as any other country. The surest way of breaking up the good neighbor policy would be to allow the impression that it permits the disregard of the just rights of the nationals of one country owning property in another country. In company with the citizens of the other American republics citizens of the United States own properties not only in Mexico, but in practically all countries. The same may be said of the citizens of the great majority of the nations of the world.

The whole structure of friendly intercourse, of international trade and commerce, and many other vital and mutually desirable relations between nations indispensable to their progress rest upon the single and hitherto solid foundation of respect on the part of governments and of peoples for each other's rights under international justice. The right of prompt and just compensation for expropriated property is a part of this structure. It is a principle to which the Government of the United States and most governments of the world have emphatically subscribed and which they have practiced and which must be maintained. It is not a principle which freezes the status quo and denies change in property rights but a principle that permits any country to expropriate private property within its borders in furtherance of public purposes. It enables orderly change without violating the legitimately acquired interests of citizens of other countries.

The Government of Mexico has professed its support of this principle of law. It is the considered judgment, however, of the Government of the United States that the Government of Mexico has not complied therewith in the case of several hundred separate farm or agrarian properties taken from American citizens. This judgment is apparently not admitted by your Government. The Government of the United States therefore proposes that there be submitted to arbitration the question *whether there has been compliance by the Government of Mexico with the rule of compensation as prescribed by international law in the case of the American citizens whose farm and agrarian properties in Mexico have been expropriated by the Mexican Government since August 30, 1927, and if not, the amount of, and terms under which, compensation should be made by the Government of Mexico.* My Government proposes that this arbitration be carried out pursuant to the provisions of the General Treaty of Arbitration signed at Washington January 5, 1929, to which both our countries are parties.

Accept, Excellency, the renewed assurance of my highest consideration.

[*Signed*] CORDELL HULL

Translation of note from the Minister of Foreign Affairs of Mexico to the American Ambassador at Mexico City [1]

MINISTRY OF FOREIGN RELATIONS
UNITED MEXICAN STATES
MEXICO CITY

August 3, 1938.

Mr. Ambassador:

I have the honor to refer to your Government's note delivered on July 21 last, to the Mexican Ambassador to the United States, Dr. Francisco Castillo Nájera.

In the note referred to, your Government admits Mexico's right to expropriation as well as the social justice which inspires her agrarian reform, the cause of expropriations from American landholders; but insists upon immediate payment to United States citizens for their lands which have been taken from them, regardless of what our country may do with respect to its own nationals. Furthermore, your Government deplores the fact that until now the American landholders whose claims were included in the jurisdiction of the General Claims Commission created in the year 1923, have not obtained adequate compensation and adds that the zeal with which the Mexican Government endeavors to carry out its program of social betterment has nothing to do with the question under discussion and is irrelevant thereto. Your Government requires from that of Mexico the immediate payment of adequate compensation for the American landholders affected by the agrarian reform since August 30, 1927, alleging that otherwise my country will violate a universally recognized rule of international law based on reason, equity and justice.

My Government maintains, on the contrary, that there is in international law no rule universally accepted in theory nor carried out in practice, which makes obligatory the payment of immediate compensation nor even of deferred compensation, for expropriations of a general and impersonal character like those which Mexico has carried out for the purpose of redistribution of the land.

The expropriations made, in the course of our agrarian reform, do, in fact, have this double character which ought to be taken very much into account in order to understand the position of Mexico and rightly appraise her apparent failure to meet her obligations.

Without attempting to refute the point of view of the American Government, I wish to draw your attention very specially to the fact that the agrarian reform is not only one of the aspects of a program of social betterment attempted by a government or a political group for the purpose of trying out new doctrines, but also constitutes the fulfilling of the most important of the demands of the Mexican people who, in the revolutionary struggle, for the

[1] Made public by the Department of State at Washington.

purpose of obtaining it, sacrificed the very lives of their sons. The political, social and economic stability, and the peace of Mexico, depend on the land being placed anew in the hands of the country people who work it; a transformation of the country, that is to say, the future of the nation, could not be halted by the impossibility of paying immediately the value of the properties belonging to a small number of foreigners who seek only a lucrative end.

On the one hand, there are weighed the claims of justice and the improvement of a whole people, and on the other hand, the purely pecuniary interests of some individuals. The position of Mexico in this unequal dilemma could not be other than the one she has assumed, and this is not stated as an excuse for her actions but as a true justification thereof.

The enumeration made by your Government, in the note referred to, of social reforms recently carried out in the United States of North America demonstrates to what point the present hour demands a fundamental readjustment in the methods of government, for a few years ago the said reforms would not have been applauded and perhaps not even tolerated. If your Government has been in a position to make the payment of compensations at once, this circumstance only indicates that its economic circumstances permitted of doing so, but certainly it could not have postponed or abandoned those reforms, even in case such conditions had not been favorable.

As has been stated above, there does not exist, in international law, any principle universally accepted by countries, nor by the writers of treatises on this subject, that would render obligatory the giving of adequate compensation for expropriations of a general and impersonal character. Nevertheless Mexico admits, in obedience to her own laws, that she is indeed under obligation to indemnify in an adequate manner; but the doctrine which it maintains on the subject, which is based on the most authoritative opinions of writers of treatises on international law, is that the time and manner of such payment must be determined by her own laws.

Pursuant to the provisions of Article 27 of its Constitution in force, the Mexican Government issued a law authorizing the issuance of agrarian bonds for the purpose of compensating the landholders affected. But, from the beginning, the difficulty of establishing up to what point the various claims of an agrarian character, of United States citizens, merited or not, in every case, individually, the payment of a compensation, was, both for the United States Government and for that of Mexico, an obstacle in determining the right of the claimant and the amount which had to be paid to him, for my Government could not undertake to pay claims which had not been duly appraised.

There is, in fact, a group of claims which are based on great concessions granted, in other epochs and by other governments, which have been canceled in view of the lack of accomplishment, by the concessionaries, of the obligations which they undertook; another group has as its basis the existence of great latifundia which were acquired practically without payment; there is another group of claims in which the owners obtained their titles from promo-

tion companies without having carried out the obligations undertaken. The restitution of lands to pueblos, which had been despoiled of them by illegal means, constitutes another group in which the possessor had a title vitiated from the beginning. Other affectations originated in ejidal dotations in accordance with the Mexican agrarian laws, and in these cases Mexico has recognized its obligation to indemnify. And, lastly, there exists a certain number of claims of small and medium owners which, although subject to agrarian provisions, because their properties do not meet the requirements which the latter provisions indicate for small property not subject to expropriation, nevertheless, they having been obtained by subdivisions made by companies, which now are property of the Mexican state, my Government, because of reasons of a moral and equitable order, agreed to grant to the persons affected an immediate compensation by an exceptional procedure.

So then there exist claims in which the right adduced by the claimants is doubtful and debatable; on the other hand, in other claims, there does not, properly speaking, exist any juridical debate, since, as they originated in acts of a clearly expropriatory character of the Mexican Government, the latter raises opposition only to the amount thereof. In these last claims the problem consists substantially in reducing them to their just limits, since the majority contain exaggerated demands, for the value attributed to the properties is very different from that which the claimants themselves declared for the purpose of payment of their fiscal obligations. A settlement which would not take into account that situation would approve, against Mexico, the fraud on the Treasury committed by the parties interested.

My Government desires to make it plain that when it decided to suspend the payment of its agrarian debt in the year 1930, the measure affected equally Mexicans and foreigners. If Mexico had paid only the former, without doubt it would have violated a rule of equity; if it had paid only the latter, to the exclusion of nationals, it would have committed a similar irregularity.

The Republics of our Continent have let their voice be heard since the first Pan American Conference, vigorously maintaining the principle of equality between nationals and foreigners, considering that the foreigner who voluntarily moves to a country which is not his own, in search of a personal benefit, accepts in advance, together with the advantages which he is going to enjoy, the risks to which he may find himself exposed. It would be unjust that he should aspire to a privileged position safe from any risk, but availing himself, on the other hand, of the effort of the nationals which must be to the benefit of the collectivity.

Crowning with success the effort maintained by the States of this Continent against the idea of a special status for foreigners, there was approved, at the Second Pan American Conference, held at Mexico City in 1902, a formula which was broadened and reinforced by Article 9 of the Convention signed at the Seventh Pan American Conference, which reads: "The jurisdiction of the States within the limits of the national territory, is applicable to all the

inhabitants. Nationals and foreigners who are under the same protection of the national legislation and authorities the foreigners cannot claim rights different from or more extensive than nationals" [*sic*].

The demand for unequal treatment is implicitly included in your Government's note for while it is true that it does not so state clearly, it does require the payment to its nationals, independently of what Mexico may decide to do with regard to her citizens, and as your Government is not unaware that our Government finds itself unable immediately to pay the indemnity to all affected by the agrarian reform, by insisting on payment to American landholders, it demands, in reality, a special privileged treatment which no one is receiving in Mexico.

In the note under reply, it is stated that the claims of an agrarian character previous to 1927, were submitted to the jurisdiction of the General Claims Commission, established by a Convention between the two Governments, and that, to date, whatever the reason may have been, not even a single claim has been adjusted and not one has been paid.

The Government of the United States of North America cannot be unaware, as it appears to admit in the note to which I have been referring, of the reasons why the General Claims Commission has not, until now, been able to resolve those of an agrarian character; reasons due to technical difficulties which were not foreseen at the establishment of the provisions regulating the arbitration and which cannot be attributed to voluntary acts of either of the two countries. Furthermore, it is known to Your Excellency's Government that Mexico is disposed to initiate the necessary negotiations for the purposes of arriving at a global arrangement which would overcome those technical obstacles and settle those claims definitively.

It is opportune to recall that my country's Government has been punctually paying, since the year 1935, the annuities which it undertook to pay by such an arrangement, which put an end to the Special Claims Commission notwithstanding that, for the latter, there did not exist against it, a responsibility which could be imputed to it, according to the most indisputable precepts of international law, it being, on the contrary, a case of acceptance *ex gratia* of the said responsibility.

In the final part of the note to which I am replying Your Excellency's Government proposes that there be submitted to the decision of arbitrators, within the terms of the General Arbitration Treaty signed at Washington, January 5, 1929, the following points:

1. The question whether there has been compliance on the part of Mexico with the rule relative to indemnification as prescribed by international law, in the case of United States citizens whose agrarian properties situated in Mexico have been expropriated by the Mexican Government since August 30, 1927;

2. If not, the amount of the indemnification which the Government of Mexico ought to pay;

3. That the conditions be established under which the said payment shall be made, and

4. That the arbitration referred to be carried out in accordance with the provisions of the General Treaty of Inter-American Arbitration, signed at Washington, January 5, 1929.

Mexico has never refused to submit its international differences to the jurisdiction of a court to judge according to law either acts or attitudes toward foreigners, nor has it raised objections to the decisions which have been unfavorable to it. Nevertheless, she considers that arbitration should be reserved, as the same treaty of Washington establishes, for cases of irreducible differences in which the juridical principle under discussion or the act giving origin to the arbitration are of such a character that the two peoples at variance do not find any more obvious way of coming to an agreement. Such is not the present case, for while it is true that Mexico does not consider that payment of an indemnification for properties which the State expropriates on grounds of public utility, is an invariable and universal rule of international law, it is also true that Article 27 of her Constitution ordains payment in such cases and, therefore, the Mexican Government has never denied such obligation. There is no subject matter, therefore, for the arbitration proposed.

With respect to the conditions under which the said payment should be made, arbitration is likewise unnecessary. It would, furthermore, be improper, under the terms of the Treaty of Washington, since the procedures of execution for the carrying out of obligations already recognized by Mexico cannot be a subject for arbitration and would have to be established in accordance with her economic conditions, which cannot but be taken into account by a friendly people, nor can that be the subject for decision of an international court, which, by attempting to impose a certain economic organization upon Mexico, would give a death blow to her right to organize herself autonomously, the very basis of her sovereignty. I, therefore, take the liberty of inviting Your Excellency's Government to appoint a representative, so that, together with the representative whom my Government would designate, they may fix within a brief period of time the value of the properties affected and the manner of payment, which my Government considers as execution, in part, of a general plan for the carrying out of her obligations in this respect, both in favor of nationals and foreigners. The Government of Mexico is ready to discuss at once the terms of this arrangement.

I believe that in this way, as a demonstration of the spirit of friendship and coöperation, animating the Government and the people of Mexico toward the Government and the people of the United States, the request for the indemnification of American citizens for the lands which, in compliance with the agrarian legislation, have been taken from them subsequently to August 30, 1927, will be satisfied.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest and most distinguished consideration.

[*Signed*] EDUARDO HAY

The Secretary of State of the United States to the Mexican Ambassador at Washington [1]

DEPARTMENT OF STATE
WASHINGTON

August 22, 1938

Excellency:

I have the honor to acknowledge the receipt of the Mexican Government's note of August 3 last delivered to the Ambassador of the United States in Mexico City, which note was intended to be a reply to my note of July 21 addressed to Your Excellency.

I

In my note under reference this Government called to the attention of Your Excellency's Government the fact that many nationals of the United States, chiefly the owners of farms of moderate size with a claimed value of $10,132,388 which have been expropriated by the Mexican Government subsequent to 1927, have not only been left without any payment for the properties so taken, but likewise without assurance that any payment would be made by the Mexican Government to them within any foreseeable time. I further stated, "The taking of property without compensation is not expropriation. It is confiscation. It is no less confiscation because there may be an expressed intent to pay at some time in the future."

I said that the Government of the United States cannot admit that a foreign government may take the property of American nationals in disregard of the universally recognized rule of compensation under international law or admit that the rule of compensation can be nullified by any country through its own local legislation.

My Government had in mind that the doctrine of just compensation for property taken originated long in advance of international law. Beyond doubt the question first arose when one person sought to take the property of another. Civilized society determined that common justice required that it be paid for. One nation after another decided that it was fair and reasonable, equitable and right, to accompany a taking of property by payment of just compensation. In due time the nations of the world accepted this as a sound basic rule of fair play and fair dealing. Today, it is embodied in the constitutions of most countries of the world, and of every republic of the American continent; and has been carried forward as an international doctrine in the universally recognized law of nations. There is, indeed, no mystery

[1] Department of State Press Release, No. 398, Aug. 25, 1938.

about international law. It is nothing more than the recognition between nations of the rules of right and fair-dealing, such as ordinarily obtain between individuals, and which are essential for friendly intercourse.

In the reply of Your Excellency's Government now under acknowledgment the Government of Mexico states that it maintains "that there is in international law no rule universally accepted in theory nor carried out in practice, which makes obligatory the payment of immediate compensation, nor even of deferred compensation, for expropriations of a general and impersonal character like those which Mexico has carried out for the purpose of the redistribution of the land." The Mexican Government further states that "there does not exist in international law any principle universally accepted by countries, nor by the writers of treatises on this subject, that would render obligatory the giving of adequate compensation for expropriations of a general and impersonal character," and continues by declaring that while Mexico admits "in obedience to her own laws that she is indeed under obligation to indemnify in an adequate manner" . . . "the time and manner of such payment must be determined by her own laws" and that such assertion is "based on the most authoritative opinions of writers of treatises on international law."

My Government has received this contention on the part of the Government of Mexico, I feel it necessary to state with all candor, not only with surprise, but with profound regret.

Reduced to its essential terms, the contention asserted by the Mexican Government as set forth in its reply and as evidenced by its practices in recent years, is plainly this: that any government may, on the ground that its municipal legislation so permits, or on the plea that its financial situation makes prompt and adequate compensation onerous or impossible, seize properties owned by foreigners within its jurisdiction, utilize them for whatever purpose it sees fit, and refrain from providing effective payment therefor, either at the time of seizure or at any assured time in the future.

I do not hesitate to maintain that this is the first occasion in the history of the western hemisphere that such a theory has been seriously advanced. In the opinion of my Government, the doctrine so proposed runs counter to the basic precepts of international law and of the law of every American republic, as well as to every principle of right and justice upon which the institutions of the American republics are founded. It seems to the Government of the United States a contention alien to the history, the spirit and the ideals of democracy as practiced throughout the independent life of all the nations of this continent.

If such a policy were to be generally followed, what citizen of one republic making his living in any of the other twenty republics of the western hemisphere could have any assurance from one day to the next that he and his family would not be evicted from their home and bereft of all means of livelihood? Under such conditions, what guarantees or security could be offered

which would induce the nationals of one country to invest savings in another country, or even to do ordinary business with the nationals of another country?

II

The fundamental issues raised by this communication from the Mexican Government are therefore, first, whether or not universally recognized principles of the law of nations require, in the exercise of the admitted right of all sovereign nations to expropriate private property, that such expropriation be accompanied by provision on the part of such government for adequate, effective, and prompt payment for the properties seized; second, whether any government may nullify principles of international law through contradictory municipal legislation of its own; or, third, whether such Government is relieved of its obligations under universally recognized principles of international law merely because its financial or economic situation makes compliance therewith difficult.

The Government of the United States merely adverts to a self-evident fact when it notes that the applicable precedents and recognized authorities on international law support its declaration that, under every rule of law and equity, no government is entitled to expropriate private property, for whatever purpose, without provision for prompt, adequate, and effective payment therefor. In addition, clauses appearing in the constitutions of almost all nations today, and in particular in the constitutions of the American republics, embody the principle of just compensation. These, in themselves, are declaratory of the like principle in the law of nations.

The universal acceptance of this rule of the law of nations, which, in truth, is merely a statement of common justice and fair-dealing, does not in the view of this Government admit of any divergence of opinion. Merely as one of many examples of enlightened authoritative opinion of present times upon this subject, I cite the following authority as a pertinent example.

In 1903 in the arbitration of the Selwyn case which had arisen between the Governments of Great Britain and Venezuela, the umpire in the case stated: "The fundamental ground of this claim as presented is that the claimant was deprived of valuable rights, of moneys, properties, property and rights of property by an act of the Government which he was powerless to prevent and for which he claims reimbursement. This act of the Government may have proceeded from the highest reasons of public policy and with the largest regard for the state and its interests; but when from the necessity or policy of the Government it appropriates or destroys the property or property rights of an alien it is held to make full and adequate recompense therefor."

With regard to the further fundamental issues presented in the reply of Your Excellency's Government the Mexican Government now advances the surprising contention that it may expropriate property and pay therefor, in-

sofar as its economic circumstances and its local legislation permit, but that if these circumstances and legislation do not make possible the payment of compensation, it can still take the property. If this theory were sound, the safeguards which the fundamental laws of most countries and established international law have sought to provide for private property would be utterly worthless. Governments would be free to take private property far beyond or regardless of their ability or willingness to pay, and the owners thereof would be without recourse. This, of course, would be unadulterated confiscation.

As I stated to Your Excellency in my note of July 21, the Government of the United States cannot admit that any government may of its single will, whether through its municipal legislation or by pleading economic inability, abandon the recognized principle of international law requiring just compensation, whenever the purposes for which expropriation is undertaken may seem to that government desirable.

My Government considers that its own practice has amply demonstrated that it is the consistent friend of reform, that it has every sympathy with misfortune and need, and that it recognizes fully the necessities of the underprivileged. It cannot, however, accept the idea that these high objectives justify, or for that matter require, infringement on the law of nations or the upsetting of constitutionally recognized guarantees. The modern world furnishes many examples of nations which have effected major social reforms, under unusually difficult economic conditions, while complying with every rule of equity, fair-dealing and basic law. Many governments, like the Mexican Government, today face the necessity of planning, as the Mexican Government says it does, for social betterment and for political, social and economic stability. Is it conceivable that in order to attain these desirable objectives it is necessary for governments to rest the entire undertaking on a policy of confiscation? Every sovereign nation is in possession of powers to regulate its internal affairs, to reorganize, when needful, its entire economic, financial, and industrial structure, and to achieve social ends by methods conforming with law.

Instead of using these recognized and orderly methods, the Government of Mexico in effect suggests that whenever special conditions or circumstances obtain in any one country, that country is entitled to expect all the other nations of the world to accept a change in the settled rules and principles of law, which are domestic quite as much as international, solely in order to assist the country in question to extricate itself from difficulties for which it is itself entirely responsible. Specifically, it is proposed to replace the rule of just compensation by the rule of confiscation. Adoption by the nations of the world of any such theory as that would result in the immediate breakdown of confidence and trust between nations, and in such progressive deterioration of international economic and commercial relations as would imperil the very foundations of modern civilization. Human progress would be fatally set back.

The policy of expropriation of these lands without any payment as required by law and equity and justice, places this Government in a situation where it must either assert and maintain with all vigor the doctrine of just compensation, or else acquiesce in the repudiation and abolition of that doctrine. Obviously it cannot adopt the latter course. To do so would make it a party to an undermining of the integrity which would characterize the normal relations between all nations and their peoples.

The vital interest of all governments and of all peoples in this question and the imperative need of all countries to maintain unimpaired the structure of common justice embodied in international as well as in basic national law, lead me, particularly in view of the warm friendship existing between the two countries, to appeal most earnestly to the Mexican Government to refrain from persisting in a policy and example which, if generally pursued, will seriously jeopardize the interests of all peoples throughout the world.

III

The Mexican Government rejects the proposal of the Government of the United States that there be submitted to arbitration, in the terms of the General Arbitration Treaty signed at Washington on January 5, 1929, the two following points: first, whether there has been compliance by the Government of Mexico with the rule of compensation as prescribed by international law in the case of American citizens whose farms and agrarian interests in Mexico have been expropriated by the Mexican Government since August 30, 1927, and second, if not, the amount of and terms under which compensation should be made by the Government of Mexico.

The Mexican Government sets forth as its reasons for rejecting the proposal of the United States for arbitration, its opinion that "arbitration should be reserved, as the same treaty of Washington establishes, for cases of irreducible differences in which the juridical principle under discussion or the act giving origin to the arbitration are of such a character that the two peoples at variance do not find any more obvious way of coming to an agreement." The Mexican Government continues by stating that, "Such is not the present case, for while it is true that Mexico does not consider that payment of an indemnification for properties which the state expropriates on grounds of public utility is an invariable and universal rule of international law, it is also true that Article 27 of her Constitution ordains payment in such cases, and, therefore, the Mexican Government has never denied such obligation." "There is no subject matter," the Mexican Government continues by stating, "therefore, for the arbitration proposed." Your Excellency's Government concludes by stating its opinion that, "With respect to the conditions under which the said payment should be made, arbitration is likewise unnecessary and it would, furthermore, be improper under the terms of the Treaty of Washington since the procedures of execution for the carrying out of obligations already recognized by Mexico cannot be a subject for arbitration and would have to be established in accordance with her economic conditions, which can-

not but be taken into account by a friendly people, nor can that be the subject for decision of an international court, which by attempting to impose a certain economic organization upon Mexico, would give a death blow to her right to organize herself autonomously, the very basis of her sovereignty."

The Government of the United States is unable to acquiesce in the reasons so advanced for refusal to accept the proposed arbitration. It is quite true, as the Mexican Government states, that Article 27 of the Mexican Constitution orders payment in cases of expropriation for causes of public utility of private property by the Mexican Government. I need hardly remind Your Excellency, however, that such payments in the cases of the American nationals under consideration have not been made. The very provisions of the Mexican Constitution and of the Mexican laws referred to by the Government of Mexico with such satisfaction have already been negatived in practice. They would now seem to have been abrogated in practical effect by the contention set forth in your Government's last communication.

While this Government shares the view of the Mexican Government that arbitration should be reserved for cases in which the two countries in conflict can find no other way of reaching an agreement, I may here appropriately quote the first paragraph of Article 1 of the Treaty of Inter-American Arbitration, which has been suggested by the United States as an appropriate vehicle for the friendly and impartial solution of our differences and which reads as follows:

> The High Contracting Parties bind themselves to submit to arbitration all differences of an international character which have arisen or may arise between them by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy and which are juridical in their nature by reason of being susceptible of decision by the application of the principles of law.

I find it necessary emphatically to state that, after many years of patient endeavor on the part of this Government to obtain just satisfaction for these claims without success, the Government of the United States has regretfully reached the conclusion that it is impossible to adjust them by diplomacy. Since they are obviously susceptible of decision by the application of principles of law, it believes that the proposed arbitration is the appropriate and friendly method of solution. Nor can this Government admit that the determination by arbitration of the "amount of and terms under which compensation should be made by the Government of Mexico" is a matter which in any sense impairs the autonomy of Mexico. An agreement to arbitrate on the part of sovereign nations like any treaty as, for example, the Inter-American Treaty of Arbitration itself, ratified by both Mexico and the United States, is a voluntary limitation of the exercise of sovereignty by acceptance of principles of justice, fair-dealing and law. Indeed, the highest attribute of sovereignty is the power to make just such agreements. It is exactly in this manner that civilization has advanced.

Article 1 of the Inter-American Treaty of Arbitration specifies, as questions arising between the American nations which are susceptible to the proposed arbitration: "(b) Any question of international law; (c) The existence of any fact which, if established, would constitute a breach of an international obligation."

The Government of the United States maintains that in the treatment accorded its nationals by the Government of Mexico, as set forth in my note of July 21, the Government of Mexico has disregarded the universally recognized principles of international law, and that its failure to make adequate, prompt, and effective payment for properties expropriated constitutes the breach of an international obligation. It follows that the controversy which has thus arisen is not one which the Mexican Government can refuse to arbitrate upon the ground that its economic situation impedes it from abiding by the principles of international law, or upon the ground that its municipal legislation provides for a different procedure. My Government, therefore, in the most friendly spirit urges the Mexican Government to reconsider the position which it has taken and to agree to submit to the proposed arbitration the questions at issue between the two Governments, as formulated in my note to Your Excellency of July 21.

IV

The Mexican Government refers to the fact that, when it undertook suspension of the payment of its agrarian debt, the measure affected equally Mexicans and foreigners. It suggests that if Mexico had paid only the latter to the exclusion of its nationals, she would have violated a rule of equity. In that connection the Mexican Government refers to Article 9 of the Convention signed at the Seventh Pan American Conference, which says: "The jurisdiction of states within the limits of national territory applies to all the inhabitants. Nationals and foreigners are under the same protection of the law and the national authorities and the foreigners may not claim rights other or more extensive than those of the nationals."

Your Excellency's Government intimates that a demand for unequal treatment is implicit in the note of the Government of the United States, since my Government is aware that Mexico is unable to pay indemnity immediately to all of those affected by her agrarian reform and yet it demands payment to expropriated landowners who are nationals of the United States. This, it is suggested, is a claim of special privilege which no one is receiving in Mexico.

I must definitely dissent from the opinions thus expressed by the Government of Mexico. The Government of the United States requests no privileged treatment for its nationals residing in Mexico. The present Government of the United States has on repeated occasions made it clear that it would under no circumstances request special or privileged treatment for its nationals in the other American republics, nor support any claim of such nationals for treatment other than that which was just, reasonable, and

strictly in harmony with the generally recognized principles of international law.

The doctrine of equality of treatment, like that of just compensation, is of ancient origin. It appears in many constitutions, bills of rights and documents of international validity. The word has invariably referred to equality in lawful rights of the person and to protection in exercising such lawful rights. There is now announced by your Government the astonishing theory that this treasured and cherished principle of equality, designed to protect both human and property rights, is to be invoked, not in the protection of personal rights and liberties, but as a chief ground of depriving and stripping individuals of their conceded rights. It is contended, in a word, that it is wholly justifiable to deprive an individual of his rights if all other persons are equally deprived, and if no victim is allowed to escape. In the instant case it is contended that confiscation is so justified. The proposition scarcely requires answer. In addition, it must be observed that the claimants in these expropriation cases did not seek to become creditors of the Mexican Government. They were forced into that position by the act of Mexico herself.

It may be noted in passing that the claim here made on behalf of American nationals is, in substance, similar to the claims which Mexican nationals have against their own Government under the Mexican Constitution adverted to by Your Excellency's Government. It is, of course, the privilege of a Mexican national to decline to assert such claim, as it is the power of the Mexican Government to decline to give it effect; but such action on the part of Mexico or her nationals cannot be construed to mean that American nationals are claiming any position of privilege. The statement in your Government's note to the effect that foreigners who voluntarily move to a country not their own assume, along with the advantages which they may seek to enjoy, the risks to which they may be exposed and are not entitled to better treatment than nationals of the country, presupposes the maintenance of law and order consistent with principles of international law; that is to say, when aliens are admitted into a country the country is obligated to accord them that degree of protection of life and property consistent with the standards of justice recognized by the law of nations. Actually, the question at issue raises no possible problem of special privilege. The plain question is whether American citizens owning property in Mexico shall be deprived of their properties and, in many instances, their very livelihood, in clear disregard of their just rights. It is far from legitimate for the Mexican Government to attempt to justify a policy which in essence constitutes bald confiscation by raising the issue of the wholly inapplicable doctrine of equality.

V

The Government of Mexico, in the note under reply, suggests the existence of a number of subsidiary questions. Included in these are questions of the legality of the titles to expropriated property; and considerations of law,

equity and valuation arising in individual cases, presenting the problem whether certain claims are just, in whole or in part, and what the amount of certain claims should be. Until the principle of just compensation has been recognized, these subsidiary questions need not be considered. My Government has repeatedly stated that it sought just and not unjust compensation so far as amount was concerned; and that it would support only just and not unjust claims so far as the law and equity of each claim was concerned. But since the Mexican Government has challenged the doctrine of just compensation and proposes to substitute for it, to all intents and purposes, the theory of confiscation, the merits of this fundamental issue must be determined before any others can be considered. It is beside the question to discuss the merits of any claim, or the titles or equities involved, or the facts and factors pertaining to valuation. Once the principle of just compensation is accepted, these become matters relevant to the problem of payment. Until then, their discussion is fruitless.

VI

In concluding the note now under acknowledgment, the Mexican Government invites the Government of the United States "to appoint a representative, so that together with the representative whom my Government would designate, they may fix, within a brief period of time, the value of the properties affected and the manner of payment." The Mexican Government states that it considers such proposal the execution in part of a "general plan for the carrying out of her obligations in this respect, both in favor of nationals and foreigners," and asserts its willingness to begin at once the discussion of the terms of this arrangement. In effect, the Government of Mexico now proposes to talk about the valuation of some of the lands of American citizens seized by the Mexican Government in recent years. Yet we have held conversations with regard to payment for many years without result. Seemingly, the Mexican Government proposes to continue the policy of taking property without payment, while continuing discussions of past takings.

In tendering the proposal so made, is the Government of Mexico prepared to agree that no further taking will take place without payment?

Can it hold out any reasonable measures of certainty that a determination of the value of the properties affected and of the manner of payment for them can be had "within a brief period of time"? Pending the reaching of an agreement between the commissioners on all of these points, will the Government of Mexico set aside sufficient cash in order to assure prompt payment in accordance with the terms of the agreement so reached? Is the Government of Mexico prepared to offer satisfactory commitments on these two points?

In the light of its experience in the unfruitful negotiations held with the Mexican Government in recent years on these subjects, my Government be-

lieves that, unless the Government of Mexico offers satisfactory commitments on these essential matters, acceptance of the suggestion of the Mexican Government would merely result in discussions which would continue over a period of many years, and which would not achieve that equitable and satisfactory solution which both Governments are assumed to desire. This would assuredly not be the case were resort had to arbitration.

VII

My Government, in its desire to expedite and to facilitate a fair solution of this question in every possible and proper manner, without, however, in any way altering its position as above set forth, will be willing, should the Government of Mexico refuse to agree to resort to arbitration as hereinbefore proposed, to reiterate the proposal contained in the informal communication from Undersecretary Welles to you under date of June 29. Your Excellency will recall that to that communication was attached an itemized list of the claims of American property owners referred to in my note of July 21. It was then suggested that the amount of compensation, together with any subsidiary questions such as the extent of the area expropriated, be determined by agreement by two commissioners, one appointed by the Government of Mexico, the other by the Government of the United States, and that, in the event of disagreement between the two commissioners regarding the amount of compensation due in any case, or of any other question necessary for a determination of value, these questions be decided by a sole arbitrator selected by the Permanent Commission at Washington provided for by the so-called Gondra Treaty, signed at Santiago, May 3, 1923, to which both our Governments are parties. It was likewise suggested that in order to advance a settlement of the matter, the Governments of Mexico and of the United States name immediately their respective commissioners and request the Permanent Commission to name concurrently the sole arbitrator. This Government further proposed that as an indispensable part of the act of expropriation and compensation, the Government of Mexico should set aside monthly in escrow in some agreed upon depository a definite amount for the exclusive purpose of making compensation for expropriated property as and when definite determinations of value have been arrived at in each case; and that should the determinations of compensation show a reduction from the amounts now claimed, the monthly deposits would be scaled down accordingly.

If the Government of Mexico considers that negotiations for a settlement of these claims have not in fact been exhausted and desires to find an equitable and friendly solution to the question as indicated in the last portion of the note of the Mexican Government of August 3, the most practical evidence of the desire of the Mexican Government to find a fair, friendly and impartial solution would be manifested by its willingness to accept the proposal contained in the communication of the Undersecretary of June 29, and now hereinbefore reiterated. If, on the other hand, the Mexican Government is

not desirous of adopting the procedure just outlined embodying safeguards to ensure payment and prevent fruitless negotiation, it would surely seem to be appropriate and fitting, and strictly within the purview of the obligation contracted by both countries under the terms of the Treaty of Inter-American Arbitration for the Governments of Mexico and of the United States to submit their controversy to arbitration in the manner suggested in my note of July 21. In either such case, my Government feels justified in requesting that, during the proposed arbitration, or during the proposed settlement suggested in the communication of June 29, the Mexican Government should agree that no further taking of the properties of American nationals should take place unless accompanied by arrangements for adequate, prompt, and effective payment.

In conclusion, may I say to Your Excellency that this Government has on repeated occasions made manifest its most sincere desire to pursue a policy of intimate and friendly coöperation with the Government of Mexico because of its conviction that the interests of the two nations, as well as the interests of inter-American friendship and solidarity, would thereby be advanced. It is the hope of this Government that it may be able to continue on that course. When two neighbors like Mexico and the United States, jointly desirous of maintaining and of perfecting their friendship, find that differences arise between them which it would appear can unfortunately not be solved by direct negotiations, it is the belief of this Government that the submission of such questions as rapidly as may be possible to an impartial arbitration is the policy required by good neighborliness. I express the very earnest hope of the Government of the United States that the Government of Mexico may speedily indicate its willingness to accede to one of the two alternative proposals above presented.

Accept, Excellency, the renewed assurances of my highest consideration.

[*Signed*] CORDELL HULL

His Excellency
Señor Dr. Don FRANCISCO CASTILLO NÁJERA,
Ambassador of Mexico.

Translation of Note from the Minister of Foreign Relations of Mexico to the American Ambassador at Mexico City [1]

MINISTRY OF FOREIGN RELATIONS
UNITED MEXICAN STATES
MEXICO CITY

September 2, 1938.

Mr. Ambassador:

I have the honor to reply to your Government's note delivered August 22 of the current year to the Ambassador of Mexico in the United States of North

[1] Department of State Press Release, No. 413, Sept. 3, 1938.

America in which there are set forth various opinions regarding international law and views are expressed regarding the laws of Mexico and acts of my Government. As a detailed analysis of those views might become a discussion of an academic character which, instead of aiding a better understanding between our respective countries and clarifying the existing problems, might, perhaps, alienate us from the spirit which friendship and mutual respect impose on us, I refrain from entering into a detailed study of the note referred to, limiting myself to upholding the bases of the international position which Mexico has assumed and to fixing the specific points which may serve as a basis for the prompt and definitive solution of the subject. I cannot, however, fail to express to Your Excellency the regret with which the people and the Government of Mexico have seen that your Government, disregarding the motives, the causes, and the historical antecedents, political and social, of our agrarian revolution, expresses the opinion that the juridical position maintained by Mexico is contrary to the fundamental principles of international law, to ethics and to democratic practices. Mexico believes, on the contrary, that it has adjusted its acts to the standards of international law in accordance with the evolution which the traditional concepts of that law have necessarily undergone. Far from judging that its attitude departs from the standard accepted by the civilized world in general and by the republics of this continent in particular, my country considers that its interpretation represents the unanimous conviction of the Ibero-American Republics and reflects juridical thought at the present moment. Mexico believes likewise that unless the true meaning of the word "democratic" is changed, it cannot be said that a social reform involving the life of the immense majority of the population of the country can be qualified as anti-democratic. Confronted with the inescapable obligation of carrying out the agrarian reform—undoubtedly the most important point of the revolutionary program—my Government must expropriate [*afectar*] all the lands that may be necessary until their complete distribution, as is ordered by the constitution and the agrarian code of Mexico, laws which establish the duty of indemnifying the owner of the lands taken, although the delivery of the indemnification might have to be postponed. The rights of society are in this case beyond doubt, and the social necessity is so urgent that its satisfaction cannot be subordinated to the possibilities of an immediate payment. In view of the fact that the aspirations of the collectivity must prevail over individual interests, Mexico cannot refrain from carrying out the redistribution of the land although in so doing she might likewise affect foreigners.

This attitude of Mexico is not, as Your Excellency's Government affirms, either unusual or subversive. Numerous nations, in reorganizing their economy, have been under the necessity of modifying their legislation in such manner that the expropriation of individual interests nevertheless does not call for immediate compensation and, in many cases, not even subsequent compensation; because such acts were inspired by legitimate causes and the

aspirations of social justice, they have not been considered unusual or contrary to international law. As my Government stated to that of Your Excellency in my note of August 3, it is indispensable, in speaking of expropriations, to distinguish between those which are the result of a modification of the juridical organization and which affect equally all the inhabitants of the country, and those others decreed in specific cases and which affect interests known in advance and individually determined.

There are numerous examples of nations whose cultural progress is beyond discussion, which have seen themselves obliged, without repudiating the right of property in the abstract, to issue laws which have signified expropriation without immediate payment and sometimes without later compensation. Countries might be mentioned which, under pressure of reasons considered to be of public necessity, have forced private individuals to exchange their gold and their gold certificates for money which has already been depreciated, or which was depreciated immediately afterwards. Those countries have also been under necessity to require private persons, without distinguishing between nationals and foreigners, to receive in payment of obligations, which had been contracted in gold, the already depreciated currency of the country. Because appropriation was indirect in these cases it was none the less effective, since the owners of gold and gold certificates in the first example, or of credits payable in gold, in the second one, have seen their property diminish without receiving adequate compensation in return. Notwithstanding that each time that measures of this character have been decreed, there have not been lacking those who described it as "confiscation pure and simple" and, notwithstanding the fact that they must have caused loss of confidence in investors, and serious disturbances in commerce, the courts of the various countries justified them, in view precisely of the reasons of a superior order and of the public interest which inspired the said measures and the necessity of maintaining the equilibrium of the national economy. It is true that when these emergency measures were adopted by countries which were economically weak, which desired to pay off their obligations, contracted in gold, with depreciated currency, the creditor nations, representing their nationals, denounced the debtor countries before the Permanent Court of International Justice, accusing them of being transgressors against right, but later, the same powerful countries which did so could not avoid having recourse to the measures which they had criticized so severely, for the purpose of solving their own problems. Following the juridical transformations of the law of property, although without destroying it, some states have incorporated in their public law the fundamental principle that interests of individuals are subordinated to those of the community as was stated by the Spanish constitution of 1931 in whose Article 44 [*sic*], after establishing that "all the wealth of the country whoever may be its owner, is subordinated to the necessities of the national economy," provides that "properties may be subject to forced expropriation on account of social utility by payment of adequate indemni-

zation unless it is otherwise provided by a law approved by the votes of an absolute majority of the Cortes."

In the Republic of Czechoslovakia, according to its constitution, the law "can limit the exercise of private property" and "expropriation cannot be effected without previous authorization of the law and indemnization unless a law should provide, either at present or in the future, that indemnization is not granted." (Article 109.)

The German Constitution declares that "It cannot make any expropriation except for public utility and in accordance with the law. It will be effected by adequate indemnification, unless a law of the Reich otherwise provides. Respecting the sum of the indemnity recourse can be had in case of disagreement to the ordinary courts, except for the laws of the Reich which stipulate the contrary."

In addition to the states whose constitutions I have just quoted, it is very interesting to observe that Yugoslavia, Bulgaria, Greece, Estonia, Finland, Latvia, Lithuania, Poland, Rumania and several others have already adopted in their organic regimes agrarian reforms with procedures similar to those established in the fundamental law of Mexico.

In examining the agrarian law of Rumania the Dean of the Law Faculty of Paris, Mr. H. Berthelmew, maintains, together with a select group of jurists of world reputation, that the application of that law in the important case of the Hungarian optants of Transylvania is not contrary to the standard of international law, and recalls that agrarian laws have been passed which have caused expropriations with inadequate indemnification, in Prussia, (1811) in Austria, (1848) in Russia, (1861) and even in the United Kingdom of Great Britain, when it included Ireland (Agrarian Reform in Rumania, 1927, pages 50 and 59). The foregoing examples have been cited, not in support of the possibility of failing to pay the expropriations on account of public utility, since on this particular point my Government has repeated, in conformity with its laws, that it considers itself obligated to indemnify, but to justify the opinion maintained by Mexico that neither juridical nor moral principles are derogated, when it is maintained that the collective interests, must prevail over the interests of persons who are nationals or foreigners. Mexico has maintained that the so-called rights of man, among others, the right to property, with its modalities, are not principles of international law, but that their validity is derived from municipal law. The fact is not disregarded that the contrary opinion upheld by your Government has defenders, but it must be admitted that the point of view of Mexico, far from constituting an unusual theory, lacking substance and without a juridical basis, has in its turn the most solid supports. Indeed, the renowned expositor of the Anglo-Saxon interpretations of international law, Oppenheim, affirms the following in the last edition of his famous treatise published by Lauterpacht, in speaking of the rights of the individual, on pages 508 and 509 of the first volume:

> It is said that such rights include the right to existence, the right to protection of honor, of the family, of health, of liberty and of property, the right to exercise the religion of one's choice, the right of emigration and other similar rights, but those rights (they can only be municipal and not international rights) at present do not enjoy any guarantee at all in international law.

Mexico has seen with satisfaction that your Government approves its proposal not to demand special or privileged treatment for its nationals, but a just and reasonable treatment in harmony with the generally recognized principles of international law. However, my Government does differ from the opinion of that of Your Excellency, as to equality of treatment having been established to protect the rights of foreigners against the state, since, on the contrary, that principle was formulated precisely in defense of the weak states against the unjustified pretension of foreigners who, alleging supposed international laws, demanded a privileged position. It has been in Latin America where there has been crystallized, as an aspiration of the republics of this continent, the principle which has just been discussed. And it is the states which are economically weak that have found themselves obliged to take all possible precautions against foreign investors who, in exchange for producing some revenues to the treasury while they obtain profits which are at times fabulous, have become an obstacle to the very action of the government. It is true, as your Government affirms in the note to which I am replying, that respect for property rights is recorded in the constitutions of all states of this continent, but it is also recorded that such right must undergo modifications or suspensions which the general interest, the basis of law itself, may demand. In such cases foreigners cannot consider themselves as immune from the modifications to which local legislation is subject. The opinion of Latin America in this respect has already been brilliantly expressed by the illustrious Argentine authority on international law, Calvo, who, using his indisputable authority, maintained in his classic treatise:

> 294.—The very serious subject of the constant claims of the great European powers on the Governments of the American states is related to this question. All have been based on personal offenses, sometimes real and sometimes padded by their agents, always painted by them in vivid colors. And the rule that in more than one case the former have tried to impose on the latter, is that foreigners deserve greater consideration and greater respect and privileges than the natives themselves of the country in which they reside. This principle, the application of which is notoriously unjust and infringes the law of equality of states, and the consequences of which are essentially disturbing, do not constitute a juridical rule applicable in the international relations of those of Europe, and whenever it has been demanded by one the reply of the other has been absolutely in the negative. It had necessarily to be so, because in the contrary case, relatively weak peoples would be at the mercy of the powerful ones and the citizens of one country would have fewer rights and guarantees than the foreigners residing there.

After the foregoing approval of the opinion of Mexico with regard to the case under discussion, I shall proceed to set forth the point of view of my Government, in regard to the manner in which this matter may be settled, taking as a basis a practical arrangement.

In the letter of Under Secretary Mr. Sumner Welles, of June 29 last, mentioned in the note to which I am now replying, Your Excellency's Government proposed establishment of a previous deposit as the guarantee of payment for the expropriated lands. My Government considers this proposal unacceptable because it considers it incompatible with the good faith and mutual confidence which should govern the stipulations of an arrangement of this character. Moreover, Mexico, as it has always done, has duly paid in strict compliance with the conditions agreed upon (April 1934) in which our two Governments succeeded in fixing by means of the "Special Claims Commission" the terms of a pecuniary obligation to correspond to the damages caused by the revolution, whereby it is amply demonstrated how unjust is the proposal contained in the said letter of June 29.

With regard to future agrarian expropriations, I have to advise Your Excellency that my Government finds itself legally incapacitated to prevent the application of the agrarian law, for which reason it will limit itself in each case, to submitting to the consideration of the commissioners mentioned below the amount and the terms of the respective indemnifications.

My Government has noted that Your Excellency's Government accepts, in order to solve the situation created, the proposal that approval of the value of the expropriated lands as well as the terms of payment therefor, be submitted to a commission constituted by one representative of each party. In its turn my Government accepts that, in case the said representatives should not arrive at an agreement, a third representative chosen by the Permanent Commission then be designated, as established by the Gondra Pact, whose seat is Washington, and which is composed of the three diplomatic agents who have been accredited there the longest. To terminate this note, I consider it pertinent to transcribe a few sentences uttered by the President of the Republic in his message to the Congress of the Union and which literally read as follows:

> Mexico, maintaining its points of view and respecting the aspects of divergence maintained by the Government of the United States, is prepared to facilitate this arrangement, which practical sense has imposed, with a most sincere and friendly desire to consider this discussion terminated, which fortunately has not disturbed the good relations between our Governments and our peoples. The continuation of this discussion would benefit only the interested and traditional enemies of any good understanding between our two Governments, as is demonstrated by the costly, violent and insidious campaign which is being carried on against Mexico in the United States and in which it is attempted to ignore that each country has different problems and different means of solving them and that only a lofty, historical, social and human comprehension would interpret the true sense of reciprocity which should govern a fruitful and

sincere friendship between the nations, which is necessary to fulfill the higher obligation to be faithful to the pact of Inter-American Solidarity, Coöperation and Harmony, concluded among all the republics of this continent and always renewed with greater faith and decision not only for their own benefit, but that of the international community.

I take pleasure in renewing to Your Excellency the assurance of my highest consideration,

[*Signed*] EDUARDO HAY

REGISTRATION OF FOREIGN AGENTS

RULES AND REGULATIONS GOVERNING THE REGISTRATION OF AGENTS OF FOREIGN PRINCIPALS UNDER THE ACT OF CONGRESS APPROVED JUNE 8, 1938 (PUBLIC NO. 583—75TH CONGRESS) [1]

Pursuant to the Act approved June 8, 1938 (Public No. 583—75th Congress, Third Session), entitled "AN ACT To require the registration of certain persons employed by agencies to disseminate propaganda in the United States and for other purposes" which reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That as used in this Act—

(a) The term "person" means an individual, partnership, association, or corporation;

(b) The term "United States" includes the United States and any place subject to the jurisdiction thereof;

(c) The term "foreign principal" means the government of a foreign country, a political party of a foreign country, a person domiciled abroad, or any foreign business, partnership, association, corporation, or political organization;

(d) The term "agent of a foreign principal" means any person who acts or engages or agrees to act as a public-relations counsel, publicity agent, or as agent, servant, representative, or attorney for a foreign principal or for any domestic organization subsidized directly or indirectly in whole or in part by a foreign principal. Such term shall not include a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State of the United States, nor a person, other than a public-relations counsel, or publicity agent, performing only private, nonpolitical, financial, mercantile, or other activities in furtherance of the bona fide trade or commerce of such foreign principal;

(e) The term "Secretary" means the Secretary of State of the United States.

Sec. 2. Every person who is now an agent of a foreign principal shall, within thirty days after this Act takes effect, and every person who shall hereafter become an agent of a foreign principal shall forthwith file with the Secretary a registration statement, under oath, on a form prescribed by the Secretary which shall set forth—

[1] Department of State Press Release, No. 415, Sept. 6, 1938.

(a) The name, business address, and residence address of the registrant;

(b) The name of the foreign principal or other person or organization for which such person is acting as agent;

(c) A copy of all contracts of employment under which such person acts or agrees to act as such agent, if written, or a full statement of the terms and conditions thereof, if oral;

(d) The date when each such contract was made, the date of commencement of activity thereunder, and the period during which such contract is to be in effect;

(e) The compensation to be paid, if any, and the form and time of payment, under such contract;

(f) The name of every foreign principal, or other person or organization which has contributed or which has promised to contribute to the compensation provided in such contract; and

(g) If the registrant be a partnership, association, or corporation, a true and complete copy of its charter, articles of incorporation, copartnership, association, constitution, and by-laws, and any other instrument or instruments relating to its organization, powers, and purposes.

Sec. 3. Every person who has filed a registration statement required by Section 2 shall, within thirty days after the expiration of such period of six months succeeding the first filing, file with the Secretary a statement, under oath, on a form prescribed by the Secretary, which shall set forth with respect to such preceding six months' period—

(a) Such facts as may be necessary to make the information required under Section 2 hereof accurate and current with respect to such period;

(b) The amount and form of compensation received by such person for acting as agent for a foreign principal which has been received during such six months' period either directly or indirectly from any foreign principal; and

(c) A statement containing such details required under this Act as the Secretary shall fix, of the activities of such persons as agent of a foreign principal during such six months' period.

Sec. 4. The Secretary shall retain in permanent form all statements filed under this Act, and such statements shall be public records and open to public examination and inspection at all reasonable hours, under such rules and regulations as the Secretary may prescribe.

Sec. 5. Any person who willfully fails to file any statement required to be filed under this Act, or in complying with the provisions of this Act, makes a false statement of a material fact, or willfully omits to state any material fact required to be stated therein shall, on conviction thereof, be punished by a fine of not more than $1,000 or imprisonment for not more than two years, or both.

Sec. 6. The Secretary is authorized and directed to prescribe such rules, regulations, and forms as may be necessary to carry out this Act.

Sec. 7. This Act shall take effect on the ninetieth day after the date of its enactment.

Approved, June 8, 1938.

The Secretary of State hereby prescribes the following rules, regulations, and forms, subject to rescission, modification or amendment as the Secretary of State may from time to time hereafter prescribe:

I

DEFINITIONS

As used in these rules, regulations and forms, unless the context otherwise requires—

(1) The term *person* means an individual, partnership, association, or corporation.

(2) The term *Secretary* means the Secretary of State of the United States.

(3) The term *Act* means the Act approved June 8, 1938 (Public No. 583—75th Congress, Third Session), entitled "AN ACT To require the registration of certain persons employed by agencies to disseminate propaganda in the United States and for other purposes."

(4) The term *section* means a section of the Act.

(5) The term *rules and regulations* means all rules, regulations, and forms prescribed by the Secretary.

(6) The term *government of a foreign country* means any group of persons exercising sovereign political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of such group and any group or agency to which authority or functions are directly or indirectly delegated or permitted. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority, whether such faction or body of insurgents has or has not been recognized by the United States.

(7) The term *political party of a foreign country* means any group of persons in a country other than the United States, having for an aim the establishment or the administration of a government or of a governmental system.

(8) The term *person domiciled abroad* means a person who has outside the United States a permanent home or principal establishment.

(9) The term *foreign business* means any entity organized or set up under a jurisdiction of a country other than the United States and having its principal place of business outside the United States, for the purpose of livelihood or profit.

(10) The term *foreign partnership* means an association of two or more persons formed outside the United States to engage jointly in any occupation or undertaking.

(11) The term *foreign association* means an unincorporated entity or group of persons formed outside the United States and acting for a common purpose.

(12) The term *foreign corporation* means a legal entity created by or under the laws of a country other than the United States.

(13) The term *foreign political organization* means a group of persons organized and existing outside the United States which is engaged in political activity.

(14) The term *public-relations counsel* means any person who directly or

indirectly informs, advises, or in any other way represents a principal in any matters pertaining to public relations, public policy or political interests.

(15) The term *publicity agent* means any person who is directly or indirectly engaged in the placing or disseminating within the United States of oral, written, or pictorial information or matter of any kind for publication in any manner, including publication through advertising, books, periodicals, newspapers, lectures, broadcasts, moving picture showings, or otherwise: *Provided, however*, That this term shall not be held to apply to any person by reason of his being engaged in the dissemination of material, information, or ideas in furtherance of bona fide religious, scholastic, academic, or scientific activities or of the fine arts.

(16) The term *duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State of the United States* shall include any representative of a foreign government who functions as a diplomatic or consular officer in the United States and whose diplomatic or consular status is of record in the Department of State of the United States.

(17) The term *private activities in furtherance of bona fide trade or commerce* means activities ordinarily and customarily performed by persons for private livelihood or profit, as distinguished from activities of a political or other character, whether or not in the guise of trade or commerce.

(18) The term *nonpolitical activities in furtherance of bona fide trade or commerce* means such activities as are religious, educational, professional, scientific, or related to the fine arts, which do not in any essential respect relate to the conduct of a government.

(19) The term *financial activities in furtherance of bone fide trade or commerce* means activities in which exchange of money or its equivalent is involved through the normal channels of finance, and includes the normal incidents of such transactions.

(20) The term *mercantile activities in furtherance of bone fide trade or commerce* means activities directly concerned with the business of procuring, buying, selling, merchandising, warehousing, forwarding, transporting or processing goods, products or property of any kind.

(21) The term *other activities in furtherance of bone fide trade or commerce* as used in subsection (d) of the first section of the Act, means services rendered in connection with private activities, nonpolitical activities, financial activities or mercantile activities as herein defined.

(22) The term *furtherance of bone fide trade or commerce* means engaging in good faith in the lawful exchange of goods, products, services or property of any kind, or in any business, occupation or employment. Such term shall not include any political activities.

(23) The term *registration statement* means the statement submitted to the Secretary for filing pursuant to the terms of the Act, and includes all documents and papers supplementary thereto.

(24) The term *registrant* means the person named in the registration state-

ment and in whose behalf the registration statement is submitted to the Secretary for filing.

II

The Act requires the registration of any person who *acts* or *engages to act* or *agrees to act* as:

public-relations counsel,
publicity agent,
agent,
servant,
representative, or
attorney

for:

the government of a foreign country,
a political party of a foreign country,
a person domiciled abroad,
a foreign business,
a foreign partnership,
a foreign association,
a foreign corporation,
a foreign political organization, or
any domestic organization subsidized directly or indirectly in whole or in part by any of the above.

The *only* persons within these categories excepted from the requirement to register are persons *other than a public-relations counsel or publicity agent*, performing:

private activities in furtherance of bone fide trade or commerce,
nonpolitical activities in furtherance of bone fide trade or commerce,
financial activities in furtherance of bone fide trade or commerce,
mercantile activities in furtherance of bone fide trade or commerce, or
other activities in furtherance of bone fide trade or commerce,

or persons who function in the United States as diplomatic or consular officers and whose diplomatic or consular status is of record in the Department of State.

III

Regulations under Section 2 of the Act

1. Every person required to register under the terms of Section 2 of the Act and under the rules and regulations issued pursuant to the Act, shall submit to the Secretary a registration statement on a form similar to that printed below. Registration statements must be signed and sworn to before a notary public or other person authorized by law to administer oaths for general purposes before they are transmitted to the Secretary of State. Blank forms will be furnished by the Secretary upon request.

Registration No.....
Date of Registration:.....
(Not to be filled in by registrant.)

UNITED STATES OF AMERICA

DEPARTMENT OF STATE

REGISTRATION STATEMENT

For persons required to register with the Secretary of State pursuant to Section 2 of the Act, Public No. 583—75th Congress, Third Session, approved on June 8, 1938.

(Note: All spaces must be filled in.)

(1) Name of registrant:.....
.....

(2) Status of registrant (individual, partnership, association or corporation):.....

(3) Principal business address:.....

(4) Other places of business in the United States or elsewhere:.....

(5) Residence address, or addresses, if more than one:.....
.....

(6) If registrant is a partnership, names and addresses of partners; if a corporation or association, names and addresses of officers thereof:.....
.....

(7) Name of foreign principal, or principals, if more than one, for which registrant is acting as agent:.....
.....

(8) Address, or addresses, if more than one, of foreign principal:.....
.....

(9) Nationality of foreign principal, or principals, if more than one:.....
.....

(10) Comprehensive statement of nature of business of registrant:.....
.....

(11) Nature of business of foreign principal, or principals:.....
.....

(12) Identification of all contracts of employment or other documents submitted herewith to indicate in complete detail the nature of the employment of registrant, and the terms and conditions thereof:.....
.....

(13) (a) Dates of contracts under which registrant is employed:.....
(b) Dates of commencement of activity thereunder:.....
(c) Periods of duration of contracts of employment. (If not known definitely approximations may be made):.....

(14) Compensation to be paid registrant, and form and time of payment, under contracts or terms of employment:.....
.....

(15) Names of all foreign principals, or other persons or organizations which have contributed, or promised to contribute, to compensation referred to in paragraph (14) above:
.....

(16) If registrant is a partnership, association, or corporation, identify documents and instruments, whether charter, articles of incorporation, copartnership, or association; constitution; by-laws; or other documents or instruments relating to registrant's organization, powers, and purposes, submitted herewith in compliance with the Act:.....
.....

(17) (a) Nationality of registrant:.....

(b) If American born, date and place of birth:.....

(c) If naturalized, date and place of naturalization:.....

(d) If alien, indicate type of travel document and nature of entry into the United States (whether for business or pleasure, temporary or permanent, etc.), including date, port of entry, type and date of visa, country of origin, country from which entry was made, etc.:.....

(18) Official designation of registrant:.....

(19) Date of execution of Registration Statement:.....

The undersigned swears (affirms) that he has read the Act, Public No. 583—75th Congress, Third Session, approved on June 8, 1938, and the rules and regulations issued pursuant thereto; that he is familiar with the contents of this Registration Statement submitted pursuant to such Act, rules and regulations, and with the contents of the documents supplementary thereto which are incorporated therein and constitute a part thereof, and that the facts therein set forth are true to the best of his knowledge, information and belief.

.....
(Signature of registrant)

(If registrant is a partnership, association or corporation, the signature shall be that of its duly authorized representative.)

.....
(Type or print name beneath)

Signed and sealed in my presence this ..... day of ....., 19....

.....
(Title)

My commission expires:.....

2. Registration statements should be in English. If in a foreign language, they must be accompanied by an English translation, certified under oath by the translator, before a notary public or other person authorized by law to administer oaths for general purposes, as a true and accurate translation. The statements, with the exception of signature, should be typewritten, but will be accepted if written legibly in ink.

3. All spaces in the registration statement form must be properly filled in. Registration statements found not to be in proper form, or lacking in essential details, will not be accepted by the Secretary for filing, and such registration statements shall not be deemed to have been filed in compliance with the Act.

4. Where space in the registration statement form does not permit full answers to questions, the information required may be set forth in supple-

mentary papers incorporated by reference in the registration statement and submitted therewith. Supplementary documents and papers must be referred to in the principal statement in chronological or other appropriate order and be described in such manner that they can be easily identified.

5. Acceptance by the Secretary of a registration statement submitted for filing shall not necessarily signify a full compliance with the Act on the part of the registrant, and such acceptance shall not preclude prosecution as provided for in the Act for a false statement of a material fact, or the willful omission of a material fact required to be stated therein.

6. The date on which a registration statement is accepted by the Secretary for filing shall be considered the date of the filing of such registration statement pursuant to the Act.

7. Papers and documents already filed with the Secretary pursuant to the Act may be incorporated by reference in any registration statement subsequently submitted to the Secretary for filing, provided such papers and documents are adequately identified in the registration statement in which they are incorporated by reference.

8. The filing of a registration statement by a partnership, association or corporation shall not preclude the necessity of the filing of a similar registration statement as required under the Act, by such individual members, employees, associates and affiliates of such registrant, as are required to register under the Act.

9. Every registration statement executed and submitted to the Secretary by or on behalf of a partnership, association, or corporation, shall contain or be accompanied by a concise statement of the applicable provisions of the partnership agreement, articles of incorporation, by-laws or similar documents, indicating the right of the person who signs and submits the registration statement for filing to take such action on behalf of the partnership, association, or corporation, and a statement under oath that all such requirements have been complied with and that the person signing and submitting the registration statement is fully authorized to do so.

10. A separate registration statement, under the Act, must be filed with the Secretary by each person required to register.

11. The Secretary should be notified promptly upon the cessation of the agency or activity by virtue of which a registrant has been required to file a registration statement pursuant to the Act.

IV

Regulations under Section 3 of the Act

1. Every person required to submit statements to the Secretary for filing in compliance with the terms of Section 3 of the Act and under the rules and regulations issued pursuant to the Act shall submit such statements under oath on a form similar to that printed below. Blank forms will be furnished by the Secretary upon request.

2. The rules and regulations set forth under III hereof, with respect to registration statements submitted to the Secretary under Section 2 of the Act, shall apply with equal force and effect to statements required to be submitted to the Secretary for filing under Section 3 of the Act.

Registration No.....
Date of Registration:.....
(Not to be filled in by registrant.)

UNITED STATES OF AMERICA

DEPARTMENT OF STATE

SUPPLEMENTAL REGISTRATION STATEMENT

For persons required to submit statements to the Secretary of State for filing in compliance with Section 3 of the Act, Public No. 583—75th Congress, Third Session, approved on June 8, 1938.

(Note: Except in paragraph (1), if answers would be exactly the same as answers made to similar questions in a previous statement filed with the Secretary under the Act of June 8, 1938, the word *same* may be written in the appropriate spaces below with an indication of the number and date of the previous statement filed. All spaces must be filled in.)

[The questions asked in this Supplemental Registration Statement, and the form of affidavit, are identical with the Registration Statement printed above, p. 212, and are therefore omitted from this Supplement, except paragraph 15 which reads as follows:]

(15) Amount and form of compensation received by registrant during period of six months immediately succeeding last statement filed with the Secretary pursuant to the Act:.....

.....

V

INSPECTION OF REGISTRATION STATEMENTS

1. Registration statements filed with the Secretary pursuant to the Act will be available for public inspection in the Department of State, Washington, D. C., during all business hours, *i.e.* from 9 A.M. to 4:30 P.M. on each business day excepting Saturday, and from 9 A.M. to 1 P.M. on Saturdays.

September 6, 1938.

INDEX